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NO. 11508

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

OCTOBER TERM, A. D., 1955

IN THE MATTER OF
ROBERT L. KNETZER, BANKRUPT

WILLIAM C. DUNHAM, as Trustee of the Estate of Robert L. Knetzer, Bankrupt,

Appellant,

vs.

ROBERT W. JAFFKE,

Appellee.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS, SOUTHERN DIVISION

STATEMENT PURSUANT TO RULE 10(b) OF THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Page of Record

1 This case was commenced on December 1, 1952 by a petition filed by Robert W. Jaffke for the reclamation of certain funds allegedly belonging to the Petitioner, and in the possession of William C. Dunham, as Trustee of the Estate of Robert L. Knetzer, Bankrupt. The suit was originally begun by Robert W. Jaffke as Petitioner William C. Dunham, as Trustee of the Estate of Robert L. Knetzer, Bankrupt, and the said Robert L. Knetzer were parties defendant and respondents in said petition. Subsequent thereto, on the hearing of said cause on October 15, 1954, the Defendant-Respondent William C. Dunham suggested the death of Robert L. Knetzer in the record of said hearing, and the fact that Robert L. Knetzer was survived by Violet Knetzer, his widow, and two minor

children, namely John Robert Knetzer and Kathleen Mary Knetzer.

The petition for reclamation was filed on December 1, 1952, the answer and affirmative defenses of William C. Dunham were filed March 16, 1953, and a motion to make more definite first affirmative defense and reply to other affirmative defenses was filed April 1, 1953 by the petitioner. This motion was overruled by the Honorable Charles G. Briggle on September 24, 1954.

Thereafter, an affidavit for change of venue and an application to disqualify judge, respectively, were filed by the petitioner on December 24, 1953.

The Honorable Charles G. Briggle assigned this case to Judge J. LeRoy Adair and the evidence on said petition was taken before him on the 14th and 15th days of October, 1954.

On April 15, 1955, Findings of Fact, Conclusions of Law and Judgment Order were entered by Judge J. LeRoy Adair, wherein he ordered that the petitioner recover from
2 the Respondent, William C. Dunham, in his official capacity as Trustee in Bankruptcy, the sum of Twenty Seven Thousand Four Hundred Dollars ($27,400.00).

William C. Dunham, the Defendant-Respondent, filed a notice of appeal from said order in the office of the Clerk of the U.S. District Court for the Southern District of Illinois, Southern Division, on April 21, 1955.

The case was heard and determined by the Court as a Referee sitting in Bankruptcy, and there was no determination by a jury.

WILLIAM C. DUNHAM, Trustee of the Estate of Robert L. Knetzer, Bankrupt
Respondent-Appellant
By /s/ G. W. Horsley
G. W. Horsley
and /s/ L. H. Lenz
L. H. Lenz
408 E. Adams Street
Springfield, Illinois
Attorneys

3 Pleas in the District Court of the United States of America within and for the Southern Division of the Southern District of Illinois, held in the City of Springfield, in said Division and District, before the Honorable Charles G. Briggle, Judge of said Court, on Monday the second day of June, in the year of our Lord one thousand nine hundred and fifty-two, and of the Independence of the United States of America, the one hundred and seventy-sixth year.

PRESENT:

Charles G. Briggle, District Judge
Robert Grant, United States Marshall
Howard L. Doyle, United States Attorney
G. W. Schwaner, Clerk

ATTEST:

G. W. Schwaner, Clerk

PETITION OF ROBERT W. JAFFKE

4 (Filed on December 1, 1952.)

5 The petition of Robert W. Jaffke residing at No. 3540 Herford Street in the City of St. Louis, in the State of Missouri, by occupation a Real Estate Broker, respectfully represents:

1. That on the 5th day of October, 1948, there was filed in the office of the Clerk of the United States District Court for the Southern District of Illinois, Southern Division, a certain petition, in and by which petition the petitioner prayed that one Robert L. Knetzer, of Edwardsville, Illinois, be adjudged by the Court to be a bankrupt within the purview of the Acts of Congress of the United States of America relating to bankruptcy; that said Clerk then and there designated on the docket of said Court said cause as No. 11789.

2. That on the 21st day of October, 1948, said Court heard said petition and upon such hearing ordered and adjudged the said Robert L. Knetzer, a bankrupt, within the purview of said Acts of Bankruptcy, and then and

there the said Court in said cause appointed one William C. Dunham, of the City of East St. Louis, in the State of Illinois, trustee of the estate of the above named bankrupt.

3. That the said William C. Dunham, then and there accepted such appointment and on the 15th day of December, 1948, presented to said Court for approval his bond as such Trustee and the Court then and there approved such bond, and such bond so approved by the Court was at once filed in the office of the Clerk of said Court, and the said William C. Dunham thereupon became the duly appointed, qualified and acting Trustee of the estate of
6 said bankrupt, and from thence until now continued to act as such Trustee and is now so acting as such Trustee.

4. That on or about the 6th day of December, 1950, said Robert L. Knetzer requested this petitioner to meet with him, the said Robert L. Knetzer, at the Sheraton Hotel in the City of St. Louis, in the State of Missouri, and in compliance with such request this Petitioner and the said Robert L. Knetzer at said time met at said Sheraton Hotel.

5. That at such meeting in said Sheraton Hotel, the said Robert L. Knetzer then and there stated to petitioner that he, the said Robert L. Knetzer, was then and there ready and able to organize a certain corporation under the name, style and description of The Bison Construction and Mining Corporation, under the laws of the State of Montana for the purpose of constructing homes in a housing project near the air base at or near to Great Falls, Montana, and that he, the said Robert L. Knetzer, had connections with various business concerns that would enable him to erect residential property at a price cheaper than could be done by any other builder or contractor, and that he, Robert L. Knetzer, was then working on a deal whereby he could obtain from the Reconstruction Finance Corporation, a United States Governmental Agency, funds with which to pay for the construction or erection of such homes; that in order to be able to initiate such business, he, the said Robert L. Knetzer, would need to borrow a sum of money from petitioner, and that he, Robert L. Knetzer, would need such money but a short time and

within less than a year he, Robert L. Knetzer, would be able to repay petitioner and all the other creditors of him, the said Robert L. Knetzer, and would have plenty of profits left in which petitioner would share.

6. That the said Robert L. Knetzer made the statements set forth in paragraph 5 of this complaint to the petitioner, and the said Robert L. Knetzer, at the time and place aforesaid, contriving to wrong and defraud petitioner, falsely and fraudulently represented that such statements so made by him as aforesaid were true.

7. That said Robert L. Knetzer then and there made such representations for the purpose of inducing petitioner to advance and turn over to him, the said Robert
7 L. Knetzer, the sum of $47,980.00 for the purposes aforesaid.

8. That petitioner believed such representations so made by the said Robert L. Knetzer and relied upon the same, and so believing and relying upon such representations, petitioner did deliver and pay over to the said Robert L. Knetzer the said sum of $47,980.00 for the purposes aforesaid.

9. That petitioner was deceived by said statements and representations so made by said Robert L. Knetzer, and was induced thereby to pay over to the said Robert L. Knetzer at the time and in the manner hereinbefore set forth, the said sum of $47,980.00.

10. That the said Robert L. Knetzer at the time of making such representations and receiving such money, knew that such representations were false.

11. That by reason of the said Robert L. Knetzer so making such representations and by reason of petitioner so paying to the said Robert L. Knetzer the said sum of money in the manner hereinbefore set forth, said sum of $47,980.00 so received by the said Robert L. Knetzer, then and there became impressed with a trust for the said uses and purposes for which it was so paid over and so received, and the said Robert L. Knetzer, then and there had no right or authority to use said money for any other purpose.

12. That the said Robert L. Knetzer wrongfully, unlawfully and fraudulently failed and refused to use any

part of said sum of money for any purpose for which said money was paid over by petitioner to the said Robert L. Knetzer.

13. That from the time of so advancing such money by petitioner to the said Robert L. Knetzer, until on or about the 1st day of August, 1952, petitioner believed that said Robert L. Knetzer was using said money for the purpose for which it was turned over to him, the said Robert L. Knetzer.

14. That on or about the 1st day of August, 1952, the said Robert L. Knetzer informed petitioner that he, the said Robert L. Knetzer, had, during the period of December 7, 1950, to November 1, 1951, paid the sum of $36,000.00 from the above named sum of $47,980.00 to William C. Dunham, Trustee in Bankruptcy of the estate of Robert L. Knetzer, a bankrupt, for the purpose of remaining out of jail.

8 15. That the said Robert L. Knetzer then and there had no right or authority to use said money, or any part thereof, to pay over to the said William C. Dunham, as such Trustee, and the said William C. Dunham, as such Trustee, then and there had no right or authority to receive such money or any part thereof.

16. That he, the said William B. Dunham, as such Trustee, then and there, at the time of receiving such money, well knew that the said Robert L. Knetzer was and had been, since the 15th day of December, 1948, a bankrupt, and said Trustee should not have received such money so paid to him without learning what right, title and interest, if any, the said Robert L. Knetzer had in and to said money, and if by the exercise of reasonable diligence said Trustee had made inquiry, he would have learned that he had no right to receive such money or any part thereof.

17. That notwithstanding his duty in that behalf, said Trustee received such sum of $36,000.00, petitioner is informed, and still wrongfully and unlawfully holds the same, and such sum so paid to him should be paid over by him, the said William C. Dunham, to the petitioner herein as a credit upon the sum owing by said Robert L. Knetzer to petitioner; that it would be inequitable for said Trustee to pay said sum of $36,000.00 or any part thereof to the creditors

of the said Robert L. Knetzer, bankrupt, or to pay out of said sum any part of the costs of such bankruptcy proceeding, and the said Trustee should, by order of this Court, be enjoined from so paying out of said sum of $36,000.00 any sums to the creditors of said Robert L. Knetzer, bankrupt, or any costs of such bankruptcy proceedings.

18. That upon learning that representations so made by the said Robert L. Knetzer were false as hereinbefore alleged, petitioner made demand upon said Robert L. Knetzer to return to him, the petitioner, the sum of money so turned over by him, the petitioner, to him, the said Robert L. Knetzer, and the said Robert L. Knetzer has at all times since said demand was made, refused and neglected to pay over such sum, or any part thereof, in compliance with such demand.

19. That the said Robert L. Knetzer should account for and pay over to petitioner the said sum of $47,980.00.

9 20. The petitioner hereby makes parties defendant to this petition Robert L. Knetzer and Robert L. Knetzer, bankrupt, in cause No. 11789, and William C. Dunham, as Trustee in Bankruptcy in the estate of Robert L. Knetzer, bankrupt, cause No. 11789, and prays that summons may issue against each of them.

WHEREFORE, petitioner demands:

1. That petitioner have judgment against the said Robert L. Knetzer for the sum of $47,980.00.

2. That petitioner have judgment against Robert L. Knetzer, bankrupt, ordering and directing the said Robert L. Knetzer, as such bankrupt, to return to petitioner said sum of $47,980.00.

3. That petitioner have judgment against William C. Dunham, as Trustee of the estate of Robert L. Knetzer, a bankrupt, ordering and directing said Trustee to account for and pay over the sum of $36,000.00 to petitioner to be applied by said petitioner upon said sum of $47,980.00 owing by the said Robert L. Knetzer to petitioner.

4. That said William C. Dunham, as Trustee of the estate of Robert L. Knetzer, be enjoined from paying said sum of $36,000.00, or any part thereof, to the creditors of

the said Robert L. Knetzer, bankrupt, and from paying out of said sum any costs of said bankruptcy proceeding.

5. That petitioner have such other and further relief as is just.

Robert W. Jaffke
3540 Herford Street
Zone 9, St. Louis, Missouri
Petitioner

/s/ Roscoe Bonjean
Roscoe Bonjean
501 Myers Building
Springfield, Illinois
and
/s/ S. S. DuHamel
S. S. DuHamel
414 Illinois Building
Springfield, Illinois
Attorneys for Petitioner

STATE OF MISSOURI }
COUNTY OF ST. LOUIS } SS.

10 Robert W. Jaffke, being duly sworn, upon his oath states that he is the petitioner in the foregoing petition and that he has read said petition, and states that the matters and things therein stated are true.

Robert W. Jaffke

Subscribed and sworn to before me, a Notary Public in and for said County of St. Louis in the State of Missouri, this 6th day of November, 1952.

And I hereby certify that I have full power and authority under the laws of the State of Missouri to administer oaths.

Dorothy Allaway,
(Seal) Notary Public.

My Commission expires July 18, 1954.

Rec. a copy of the foregoing this 1st day of December, 1952.

G. W. Horsley, Atty. for
William C. Dunham, Trustee.

Indorsed, Filed
Dec. 1, 1952,
G. W. Schwaner, Clerk

ANSWER OF WILLIAM C. DUNHAM TO PETITION TO RECOVER FUNDS FROM TRUSTEE FILED BY ROBERT W. JAFFKE

11 (Filed on March 16, 1953.)

12 Now comes WILLIAM C. DUNHAM, Trustee in Bankruptcy, of the bankrupt estate of Robert L. Knetzer and for answer to the petition of Robert W. Jaffke filed December 1, 1952, says:

1. He admits each and every one of the allegations of paragraph 1.

2. He admits each and every one of the allegations of paragraph 2.

3. He admits each and every one of the allegations of paragraph 3.

4. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 4 and therefore prays strict proof thereof.

5. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 5 and therefore prays strict proof thereof.

6. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 6 and therefore prays strict proof thereof.

7. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 7 and therefore prays strict proof thereof.

8. He denies each and every one of the allegations of paragraph 8.

9. He denies each and every one of the allegations of paragraph 9.

10. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 10 and therefore prays strict proof thereof.

11. He denies each and every one of the allegations of paragraph 11.

12. He denies each and every one of the allegations of paragraph 12.

13. He denies each and every one of the allegations of paragraph 13.

14. He denies each and every one of the allegations of paragraph 14.

15. He denies each and every one of the allegations of paragraph 15.

16. He denies each and every one of the allegations of paragraph 16.

17. He denies each and every one of the allegations of paragraph 17.

18. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 18 and therefore prays strict proof thereof.

19. He is not sufficiently informed to neither admit nor deny the allegations of paragraph 19 and therefore prays strict proof thereof.

13 He further denies that the petitioner, Robert W. Jaffke, is entitled to any relief against him as prayed for in said petition and he further denies more specifically that said petitioner is entitled to judgment against him in the sum of $36,000.00 or in any sum of money whatsoever

and he further denies that said petitioner is entitled to any injunctive relief as prayed for in said petition and further answering the petition of the said Robert W. Jaffke, your Trustee says:

FIRST AFFIRMATIVE DEFENSE

1. That the said Robert W. Jaffke did prior to October 5, 1948 give to the said Robert L. Knetzer a large sum of money in connection with certain business ventures in which the said Robert W. Jaffke hoped to make a profit and that the said Robert W. Jaffke has filed in this Bankruptcy Court a claim in the amount of $11,300.00, claiming that the said Robert L. Knetzer was indebted to the said Robert W. Jaffke in the sum of $11,300.00; that the said Robert W. Jaffke had ample notice of the nature and conduct of the business of the said Robert L. Knetzer and had ample knowledge of his fraudulent schemes and practices in connection with the operation of his business; that at the time of the alleged payment by the said Robert W. Jaffke to the said Robert L. Knetzer between the times mentioned in said petition, the said Robert W. Jaffke had notice of the turnover order which had been entered against the said Robert L. Knetzer to make payment to your Trustee of certain sums of money of, to-wit, $250,000.00.

2. That if the said Robert W. Jaffke did loan certain moneys to the said Robert L. Knetzer, your Trustee verily believes that it was for the purpose of participating in certain concealed assets which the said Robert W. Jaffke thought that the said Robert L. Knetzer had in his possession or within his control and your Trustee further verily believes that the said Robert W. Jaffke had an understanding with the said Robert L. Knetzer by the terms of which the said Robert L. Knetzer would repay the aforementioned item of $11,300.00 out of assets which the said Robert L. Knetzer was concealing from your Trustee.

3. That because of the knowledge and participation on the part of the said Robert W. Jaffke in the schemes and practices of the said Robert L. Knetzer, the said petitioner cannot recover from your Trustee.

SECOND AFFIRMATIVE DEFENSE

14. That the petition upon which this claim is based does not set forth a good and sufficient cause of action upon which to base the claim of the petitioner and should be dismissed.

THIRD AFFIRMATIVE DEFENSE

That as shown on the face of said petition said petitioner claims to have made such payments to the said Robert L. Knetzer between the time from December 6, 1950 and November 1, 1951 and yet petitioner has not filed this petition in this Court until December 1, 1952; that said petitioner is guilty of laches and that to allow petition at this time will greatly hamper and interfere with the orderly administration of this bankrupt estate.

FOURTH AFFIRMATIVE DEFENSE

That because of the actions of the petitioner in connection with this matter the said petitioner does not come into this Court with clean hands, and is, therefore, barred from now asking for repayment of any money so advanced to the bankrupt.

FIFTH AFFIRMATIVE DEFENSE

That the circumstances, as related by the petitioner, do not create a trust either expressed or implied and the said

petitioner has no right to demand payment from your Trustee.

WILLIAM C. DUNHAM, Trustee
By /s/ G. W. Horsley
His Attorney

STATE OF ILLINOIS }
COUNTY OF SANGAMON } ss.

G. W. Horsley, being first duly sworn on oath, deposes and says that he has read the foregoing answer by him subscribed, as attorney for William C. Dunham, Trustee, and that he verily believes the matters contained therein are true and correct to the best of his information and belief; that certain matters therein not specifically denied are neither admitted nor denied for actual lack of knowledge and not for any other purpose.

/s/ G. W. Horsley

Subscribed and sworn to before me this 16th day of March, 1953.

/s/ L. H. Lenz
Notary Public

(Seal)
Indorsed, Filed
Mar. 16, 1953
G. W. Schwaner, Clerk

Received a true and correct copy this 17th day of March, 1953.

Roscoe Bonjean

MOTION TO MAKE MORE DEFINITE THE FIRST AFFIRMATIVE DEFENSE

(Filed on April 1, 1953.)

Now comes ROBERT W. JAFFKE, Petitioner in the above entitled cause of action, by Roscoe Bonjean and S. S. DuHamel, his attorneys, and moves to make more definite the statements in the first affirmative defense filed by the respondent, WILLIAM C. DUNHAM, Trustee in Bankruptcy in the estate of Robert L. Knetzer, one of the defendants in the above entitled cause, and as cause for such motion shows unto the court as follows:

(1) The allegations in paragraph 1 of said first affirmative defense being in words and figures as follows, the said Robert W. Jaffke had ample notice of the nature and conduct of the business of the said Robert L. Knetzer and had ample knowledge of his fraudulent schemes and practices in connection with the operation of his business, are but mere conclusions of the pleader and are vague and ambiguous in that the nature and kind of notice and when, where and how such notice was givien is not alleged; neither is the nature and conduct of the business of Robert L. Knetzer alleged or set forth; neither is the kind and extent of knowledge which said trustee alleges was ample; neither is there any showing as to what schemes were fraudulent or as to what practices in connection with the operation of his, Knetzer's, business were fraudulent and that by reason of the allegations in paragraph 1 of said first affirmative defense being so vague and ambiguous in failing to specify the facts necessary to show such knowledge, nature of or the manner of conducting such business and practices in connection with the operations of his, Robert L. Knetzer's, business, said defendant trustee's answer in paragraph 1 of his said first affirmative defense violates the provisions of section 12 (e) of the Civil Procedure Act and for such reason, therefore, said paragraph 1 and the allegations therein should be made more definite.

(2) The defendant trustee in paragraph 2 of said affirmative answer alleges statements upon the belief of said trustee and it is immaterial as to what such trustee believes and furthermore, the court cannot from such allegations set forth in paragraph 2 of said first affirmative defense make up and try an issue as to what the defendant trustee believes and by such reason said paragraph of said first affirmative defense and the allegations therein being so vague and ambiguous this petitioner cannot frame a responsive pleading, and petitioner therefore says that such allegations violate Rule 12 (e) of the Civil Procedure Act of the United States District Courts, and this petitioner therefore asks that the allegations set forth in paragraph 2 of said first affirmative defense be made more definite.

(3) The allegations set forth in paragraph 3 of said first affirmative defense are but a mere conclusion of the pleader for the reason that there is no allegation showing what knowledge or what participation, if any, on the part of the petitioner, Robert W. Jaffke, in the alleged schemes and practices of the said Robert L. Knetzer, and for such reason violates Rule 12 (e) of the Civil Procedure Act of the United States District Courts, and the statements in said paragraph 3 are so vague and ambiguous that this petitioner cannot frame a responsive pleading thereto, and therefore asks that the allegations or statements set forth in paragraph 3 of the first affirmative defense be made more definite.

REPLY TO SECOND AFFIRMATIVE DEFENSE

And now comes ROBERT W. JAFFKE, Petitioner, by Roscoe Bonjean and S. S. DuHamel, his attorneys, and as a reply to the second affirmative defense of the defendant, William C. Dunham, Trustee, herein says that he, said Robert W. Jaffke, denies the allegations set forth therein.

REPLY TO THIRD AFFIRMATIVE DEFENSE

18 And now comes ROBERT W. JAFFKE, Petitioner, by Roscoe Bonjean and S. S. DuHamel, his attorneys, and as a reply to the third affirmative defense of the defendant, William C. Dunham, Trustee, herein says that he, said Robert W. Jaffke, denies the allegations set forth therein.

REPLY TO FOURTH AFFIRMATIVE DEFENSE

And now comes ROBERT W. JAFFKE, Petitioner, by Roscoe Bonjean and S. S. DuHamel, his attorneys, and as a reply to the fourth affirmative defense of the defendant, William C. Dunham, Trustee, herein says that he, said Robert W. Jaffke, denies the allegations set forth therein.

REPLY TO FIFTH AFFIRMATIVE DEFENSE

And now comes ROBERT W. JAFFKE, Petitioner, by Roscoe Bonjean and S. S. DuHamel, his attorneys, and as

a reply to the fifth affirmative defense of the defendant, William C. Dunham, Trustee, herein says that he, said Robert W. Jaffke, denies the allegations set forth therein.

/s/ Robert W. Jaffke,
Petitioner
3540 Herford Street
St. Louis 9, Missouri.

/s/ Roscoe Bonjean
BY: Roscoe Bonjean
501 Myers Building
Springfield, Illinois

/s/ S. S. DuHamel
S. S. DuHamel
414 Illinois Building
Springfield, Illinois
Attorneys for Petitioner

Received a True Copy of the Foregoing Motion and Reply this first day of April, 1953.

G. W. Horsley
Attorney for William C. Dunham
Trustee in Bankruptcy

Indorsed, Filed
Apr. 1, 1953
G. W. Schwaner, Clerk.

AFFIDAVIT FOR CHANGE OF VENUE

(Filed September 24, 1954.)

I, Robert W. Jaffke, the petitioner in the above entitled cause, being first duly sworn, depose and say:

That the Honorable Charles G. Briggle, the judge before whom the above entitled matter is now pending, has a personal bias and prejudice against me and in favor of William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, bankrupt, the respondent in the above entitled matter, and I state the following facts and reasons for my belief that such bias and prejudice exists:

That on or about the month of February, 1952, I conferred with the sitting judge in bankruptcy of this Court, the Honorable Charles G. Briggle, regarding certain funds which the bankrupt, Robert L. Knetzer, fraudulently obtained from me after said Robert L. Knetzer was adjudged a bankrupt by this Court and which funds are the subject of the above entitled reclamation petition, and at that time I requested permission of the Court to interview the bankrupt, Robert L. Knetzer concerning said funds; that said bankrupt was then in the custody of the U.S. Marshall and confined in the Springfield City Jail at Springfield, Illinois, pursuant to order of the Honorable Charles G. Briggle finding said bankrupt in contempt of this Honorable Court and I gained from such conference the knowledge that the Honorable Charles G. Briggle believed that all persons dealing with or contacting said bankrupt were all partners in crime and that the Honorable Charles G. Briggle had a similar impression as to me;

21 That shortly thereafter an indictment was returned in this Court against said bankrupt which included therein a charge that said bankrupt had fraudulently obtained money from me subsequent to the time that he was adjudged a bankrupt; that immediately following the return of said indictment, I was again refused permission by the Honorable Charles G. Briggle to interview the bankrupt concerning my claim as aforesaid, although I diligently sought such permission from the Honorable Charles G. Briggle for the purpose of obtaining evidentiary facts and documents from the bankrupt to substantiate my claim, which evidentiary proof I sought on the advice of the U.S. District Attorney for the Southern District of Illinois and his assistants which advice was given because of my cooperation with that office in its investigation leading to the return of a criminal indictment against said bankrupt, charging him with the crime of obtaining money from me by means of fraud;

That after the return of said indictment the said bankrupt's custody was changed from that of a civil contemnor to that of a defendant charged with a crime against the United States, and while in such custody, as a defendant

as aforesaid, he escaped from his confinement in the City Jail at Springfield, Illinois; that thereafter said bankrupt surrendered and after his surrender I was informed that the said Honorable Charles G. Briggle believed that I was responsible for said bankrupt's escape from confinement as aforesaid; that I am prepared to produce the persons who informed me that such expressions of belief were made to them by the Honorable Charles G. Briggle;

That by reason of the foregoing, I verily believe that the Honorable Charles G. Briggle has a personal bias and prejudice against me and that it will adversely affect the relief sought by my said reclamation petition;

That I am further informed and believe that in connection with the criminal investigation of said bankrupt, the Honorable Charles G. Briggle gained knowledge and information from persons who may be material witnesses on the trial of this case regarding the matters at issue in the above captioned reclamation petition, which knowledge and information are not matters of record in this Court but are prejudicial to my said claim and therefore, I verily believe that the Honorable Charles G. Briggle could not give me a fair and impartial hearing on my said reclamation petition;

That the matters set forth in the last three paragraphs of this affidavit first came to my attention while recently interviewing witnesses in an effort to assist my attorneys in the preparation of this case for hearing, which hearing was on the 20th day of September, 1954, set by the Honorable Charles G. Briggle for October 8, 1954 at 2:00 o'clock P. M.

Dated September 24, 1954.

/s/ Robert W. Jaffke
Affiant

Subscribed and sworn to before me, a Notary Public, in and for the County of Sangamon and State of Illinois this 24th day of September, 1954.

James C. Craven
Notary Public

My Commission expires February 5, 1957.

CERTIFICATE OF COUNSEL

We, the undersigned attorneys of record for Robert W. Jaffke, petitioner in the above entitled cause, hereby certify that the foregoing affidavit and application for Change of Venue as to Judge is made in good faith and not for the purpose of hindrance or delay and was prepared by us at his request from information given by him to us, and that we are informed as to the proceedings therein, and

We further certify that the pleadings in this cause are not at issue but are pending on motion of the petitioner to make the first affirmative defense of the respondent, William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, bankrupt, more definite, and that on the 20th day of September, 1954, we were first notified by the Court that this cause was set for hearing before
23 the Honorable Charles G. Briggle at 2:00 o'clock P. M. on October 8, 1954.

Dated September 24, 1954.

/s/ William M. Giffin
William M. Giffin
Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

/s/ S. S. DuHamel
S. S. DuHamel
Illinois Building
Springfield, Illinois

/s/ Roscoe Bonjean
Roscoe Bonjean
Myers Building
Springfield, Illinois

To the Clerk of Above-named Court:

Application is hereby made, for the reasons set forth in the foregoing affidavit and certificate, that appropriate pro-

ceedings be taken under 28 USC 144, as amended in 1949, to assign another judge to hear the proceeding.

Dated September 24, 1954.

/s/ William M. Giffin
William M. Giffin
Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

/s/ S. S. DuHamel
S. S. DuHamel
Illinois Building
Springfield, Illinois

/s/ Roscoe Bonjean
Roscoe Bonjean
Myers Building
Springfield, Illinois

I, William M. Giffin, one of the attorneys of record for petitioner in the above entitled cause hereby certify that I have this 24th day of September, 1954, delivered a true copy of the foregoing affidavit and application for Change of Venue as to Judge to Mr. G. William Horsley, the attorney of record for the respondent at his office at 408 East Adams Street, Springfield, Illinois.

/s/ William B. Giffin

Received a copy this 24th day of September, 1954 at 11:45 A.M.

/s/ G. W. Horsley

Indorsed,
Filed Sept. 24, 1954
G.W. Schwaner, Clerk.

APPLICATION TO DISQUALIFY JUDGE

24 (Filed on September 24, 1954.)

25 To the Honorable Charles G. Briggle, Judge of the said Court:

The petition of Robert W. Jaffke, petitioner in the above entitled cause respectfully represents that the matter in controversy in said cause concerns a large amount of money which petitioner claims the above named bankrupt, Robert L. Knetzer, fraudulently obtained from petitioner after said Robert L. Knetzer was adjudged a bankrupt by this Court and that said bankrupt paid over said sum of money to the above named respondent, William C. Dunham, Trustee in Bankruptcy of the Estate of said bankrupt, without the knowledge or consent of petitioner; wherefore petitioner seeks by his said petition to recover said sum of money from said Trustee in Bankruptcy;

That the Honorable Charles G. Briggle, Judge of said Court in which said action was commenced and is now pending, and who is required by law to hear and decide the same, is a material witness for petitioner in the above entitled cause for the reason that certain material matters not of record in this Court, including orders issued by the Honorable Charles G. Briggle in the above numbered Bankruptcy cause which are material to the matter in controversy herein, are within the knowledge of the Honorable Charles G. Briggle and for the further reason that petitioner is informed and believes that in connection with the criminal investigation of said bankrupt, the Honorable Charles G. Briggle gained knowledge and information
26 from the parties to the above entitled matter and from persons who may be material witnesses on the trial of the above entitled cause, which knowledge and information is material to the issues involved in the above entitled cause all as set forth in affidavit of petitioner for Change of Venue as to Judge this day also filed in the above entitled cause.

WHEREFORE, petitioner prays that another judge may be designated in the manner provided by law in such cases.

Robert W. Jaffke
Petitioner

STATE OF ILLINOIS }
COUNTY OF SANGAMON } SS.

Robert W. Jaffke, the petitioner in the above entitled cause, being first duly sworn deposes and says that he has read and signed the foregoing application to disqualify judge and that the matters therein set forth are true in substance and in fact except as to those matters which are alleged upon his information and belief and as to those matters he believes them to be true.

Robert W. Jaffke
Affiant

Subscribed and sworn to before me this 24th day of September, 1954.

James C. Craven
Notary Public

My Commission expires Feb. 5, 1957.

William M. Giffin
Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

S. S. DuHamel
Illinois Building
Springfield, Illinois

Roscoe Bonjean
Myers Building
Springfield, Illinois
Attorneys for Petitioner

I, William M. Giffin, one of the attorneys of record for petitioner in the above entitled cause hereby certify that I have this 24th day of September, 1954, delivered a true copy of the foregoing application to disqualify judge to Mr. G. William Horsley, the attorney of record for the respondent at his office at 408 East Adams Street, Springfield, Illinois.

William M. Giffin

Indorsed, Filed
Sept. 24, 1954, G. W. Schwaner, Clerk

27 TRANSCRIPT OF PROCEEDINGS

September 24, 1954

28 Proceedings had and evidence taken in the above-entitled cause before the Honorable Charles G. Briggle, Judge of said court, in his court room in the United States Court House, at Springfield, Illinois, commencing on the 24th day of September, A. D. 1954, at 1:50 o'clock p.m.

PRESENT:

MR. WILLIAM M. GIFFIN of the firm of MESSRS. WANLESS, CRAVEN & GIFFIN, First National Bank Building, Springfield, Illinois,

and

MR. ROSCOE BONJEAN, Myers Building, Springfield, Illinois, appeared for the petitioner. MR. G. WILLIAM HORSLEY, 408 East Adams Street, Springfield, Illinois, appeared for the respondent.

PROCEEDINGS

29 The Court: I have another matter to take up for a few minutes before we proceed with the case on trial.

Mr. Bonjean: At the request of our client, the counsel of record in this cause of Jaffke versus William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Bankruptcy No. 11-789, we have been requested to file, and we have filed, an affidavit for a change of venue; and we would like to have that matter heard and passed upon by the court prior to any hearing on a motion that has been set for hearing this day in this matter.

Mr. Horsley: My name is G. William Horsley, attorney for the defendant, William C. Dunham, in this matter. I had this served on me at 11:45 this morning, the first time I have seen it. I am not as well prepared to take it up as I should be; but if the court wants to take it up, I think I can argue the matter at this time.

The Court: This matter was set specifically to hear the petitioner's motion to make more definite the first affirmative defense that the trustee has pleaded to his petition.

Mr. Horsley: That is right. That is what we came over to argue.

30 The Court: That motion was filed in the court on April 1, 1953. I don't know why it hasn't been brought to the attention of the court before. But at any rate, it is set for hearing today.

Now, I have just been handed the petition, the affidavit that counsel is referring to, for a change of venue. I suppose that should have attention at the earliest possible moment, before I undertake to hear the other petition.

I will hear what you have to say on that.

Mr. Bonjean: If the court please—

Mr. Horsley: Your Honor, may I ask one question before we proceed with that? I would like to have assurance that that affidavit was signed by Robert Jaffke in the presence of the notary public, and that he was sworn by that notary public and gave it under oath as administered by the notary public. I would like to have Mr. Jaffke assure the court of that before we proceed further in that matter.

Mr. Bonjean: If the court wishes it. He is here and he will certainly give that assurance, but I think the affidavit—

Mr. Horsley (Interposing): I want no impeachment of it, and I would like to have him assure the court.

31 The Court: The notary public, whoever it is, has certified that Jaffke subscribed and swore to the affidavit.

Mr. Horsley: I would like to have Mr. Jaffke, who is present here in court, to so acknowledge, if the court please.

Mr. Giffin: Mr. Jaffke is here, and I feel this: that there is a case law that holds that the affidavit speaks for

itself. Now, I have no objection to Mr. Jaffke being sworn and making such a statement.

Mr. Horsley: I don't have to have him sworn, just so he will tell the court, in the presence of the court reporter, that he was administered under oath at the time he signed the document.

Mr. Bonjean: We will be glad to do it, but we think it is superfluous.

The Court: You can assure counsel that Mr. Jaffke did swear to the affidavit?

Mr. Giffin: Mr. Jaffke answers that it is correct.

The Court: What have you to say on the change of venue?

Mr. Bonjean: On a matter of this kind, the affidavit
32 speaks for itself. I don't know whether the court has read the affidavit or not, but I think it embodies all of the requirements of the law for a change of venue, and we respectfully request the court to consider the affidavit and grant the change of venue requested.

It sets forth the facts on which the jurisdictional facts required under the law for a change in venue should be granted; and on the strength of that, we respectfully ask that it be granted. That is under Section 14 of the Code.

The Court: Section 14 of the Code?

Mr. Bonjean: That is right, your Honor.

The Court: I just barely glanced at it. Let me look at it again.

The statute says any party to a proceeding in District Court may produce a timely motion. Doesn't it say something about the timeliness of this?

Mr. Bonjean: This court has not passed upon any question whatsoever, either in the form of a pleading or otherwise, in this cause. The matter is not even at issue, and, of course, the application is timely because if this court had made some rulings in this cause that had been adverse

to this person and then he sought such an applica-
33 tion, it would not be timely. But in view of the fact that there has been nothing heard in this matter and it is not even at issue yet, it certainly is timely, your Honor.

The Court: Did I have any motions to strike in this case?

Mr. Bonjean: Nothing.

The Court: Didn't you allege some matters in defense that I heard on motions to strike, or was that on one of the other cases.

Mr. Horsley: That was in one of the other cases, but I was under the impression that there was a motion to strike the complaint in this case.

Mr. Bonjean: Not that I know of.

Mr. Horsley: That motion was heard by the court, and this court did render a decision on that.

Mr. Giffin: What Mr. Horsley is referring to there is when a complaint was filed on the District Court side for a plenary suit, which had no connection with the petition filed in the bankruptcy.

Mr. Bonjean: That was a different suit entirely.

Mr. Giffin: If you recall, all counsel chatted in chambers.

34 The Court: Jaffke filed a plenary suit in this court?

Mr. Bonjean: Yes, sir, your Honor.

The Court: While seeking recovery of the same fund that is now—

Mr. Horsley (Interposing): I filed a motion to dismiss that suit, and I am sure there was an order on the motion.

Mr. Giffin: The order in that case was there was a pending matter in the bankruptcy.

The Court: The petition had already been filed in the bankruptcy court prior to that?

Mr. Bonjean: That is right.

Mr. Giffin: That was the basis of the court's order dismissing the complaint in the District Court.

The Court: Whatever the basis was, I did enter an order dismissing that complaint?

Mr. Giffin: That is right.

Mr. Horsley: Now, if it please the court, the matter that was originally filed was filed as No. 11-789 in bankruptcy, addressed to this court—this is addressed to the Honorable Charles G. Briggle in this matter. That was filed December 1, 1952.

The Court: Wait just a minute. December 1, 1952, yes, that is right.

35 Mr. Horsley: Thereafter, I believe they paid a filing fee on it, if I am not mistaken.

Mr. Giffin: We paid a filing fee and posted a bond under a court number. We were assigned a legal number in the District Court.

The Court: Well, you filed a suit at law.

Mr. Giffin: A suit at law.

The Court: Against the trustee, seeking recovery of this fund on the common law side, and that was subsequently dismissed by the court.

Mr. Giffin: By the court on the motion of the defendant trustee that there was a prior action pending in the bankruptcy court.

The Court: Well, that might have been one of the reasons, but I expect there were other reasons.

Mr. Giffin: That is the reason you assigned in your opinion. You gave a memorandum authority, your Honor, that there was a matter pending in the bankruptcy court. If you recall, we discussed the feasibility of just changing over from the bankruptcy side to the law side in chambers, and that was discussed with all counsel present. At that time, the question of a change of venue arose in the dis-

cussion, and there were matters taken up at that time of another suit pending in the law side of the court, and the
36 thought was that this cause could be tried at the same time on the law side as the pending case.

And then the attorney for the trustee filed a motion to dismiss the complaint and the court, on the hearing of the motion, sustained the complaint and took under advisement the single question of whether or not the pending petition in the bankruptcy court denied the plaintiff from filing a suit on the law side. Then the order was entered on the basis of your findings of the law regarding the previous petition pending in the bankruptcy side of the court.

The Court: I think that is substantially correct, that the matter filed at law, No. 1569, was dismissed by this court on December 24, 1953, upon the finding that there was a petition pending in No. 11-789, bankruptcy, covering identical subject matter of the complaint in the suit at law and praying for identical relief.

It was agreed between the parties at that time, according to the order that was entered, that the issues in the bankruptcy matter were the same as those in the suit at law, and the court allowed the motion to dismiss and dismissed the suit at law.

37 Now, the bankruptcy petition is what is before the court this afternoon, and it is in that proceeding that you have today filed an affidavit for a change of venue?

Mr. Giffin: That is right, your Honor. And this motion regarding the affirmative defense, your Honor, has been outstanding almost a year.

The Court: The motion by the petitioner, the petition in the bankruptcy proceeding was filed December 1, 1952. The trustee answered on March 16, 1953, and on April 1, 1953.

Mr. Horsley: 1954.

The Court: No, 1953. The petitioner filed a motion asking that the first affirmative defense pleaded by the trustee

be made more definite; and at the same time, the petitioner answered the other affirmative defenses.

Now, we get to this affidavit for a change of venue.

Mr. Horsley: May I be heard briefly on that matter?

The Court: I don't think I require any argument, gentlemen.

The affidavit says that the affiant Jaffke in the month of February 1952, he says he conferred with Briggle
38 regarding certain funds which Knetzer, the bankrupt, fraudulently obtained after Knetzer was adjudged bankrupt by this court, and which funds are the subject of another petition entitled "Reclamation Petition." And he says that at the time he requested permission of me to interview the bankrupt Knetzer concerning said funds, that said bankrupt was then in the custody of the United States Marshal and confined in the jail at Springfield pursuant to an order of Briggle finding the bankrupt in contempt of court. And the affiant says that he gained from such conference the knowledge that Briggle believed that all persons dealing with or contacting said bankrupt were partners in crime and that Briggle had a similar impression as to him.

Well, that is a pretty broad statement. I have been accused by a lot of people doing business with this bankrupt. But he doesn't state any fact. He just says he gained the impression from some conference that he had with me.

I recall his coming into the chambers and asking permission to visit the bankrupt at the jail, and I think I denied him that privilege. I think that is what he says here.

39 Now, he says shortly thereafter the indictment was returned in this court against the bankrupt, which included a charge that the bankrupt had fraudulently obtained money from him, Jaffke, subsequent to the time that he was adjudged bankrupt; that immediately following the return of said indictment, he was again refused permission by me to interview the bankrupt concerning his claim, although, he says, he diligently sought such

permission from me for the purpose of obtaining facts and documents from the bankrupt. But after the return of said indictment—he is referring to a criminal indictment—he says was returned in this court against the bankrupt, bankrupt's custody was changed from that of a civil contendor to that of a defendant charged with crime, and while in such custody as a defendant as aforesaid, he escaped from his confinement in the city jail at Springfield. Thereafter the bankrupt surrendered and after his surrender, he, Jaffke, was informed that Briggle believed that he, Jaffke, was responsible for said bankrupt's escape from confinement, and that he is prepared to produce the person who informed him of such expressions of belief.

Who that could possibly be is pure speculation and what the facts are upon which Jaffke got that impression are pure speculation and pure figments of his imagination, I suppose. Of course, there was an investigation made at that time about the escape, and different persons were called in to be interviewed, including the police officers at the jail. Of course, the United States attorney and the FBI did most of that investigation; it wasn't the court that did it. I don't recall—certainly, I never talked to Jaffke about the escape of Knetzer from the jail.

I think this affidavit is about the first that I ever heard that anybody suspected Jaffke of having been instrumental in the escape of Knetzer from the jail. That seems to be some notion of his. I don't know why he should get such an idea as that.

By reason of the foregoing, he says, I am biased and can't try a case.

The affidavit is wholly insufficient as an affidavit under the provisions of the statute. It is wholly insufficient for other reasons; particularly it is not timely. It never apparently occurred to him to make such an affidavit until this motion to strike the defense was set for hearing at 2 o'clock today. Now he comes in and presents a motion.

41 The motion for a change of venue is overruled.

Now, what about the motion to strike the first affirmative defense? Do you want to be heard on that, gentlemen?

Mr. Giffin: If the court please, we would like to make an additional record, if we could, on this motion denying the change of venue.

The Court: To what extent?

Mr. Giffin: We would be happy to even go beyond what the case law requires, your Honor. We will put the party making the affidavit on the stand in support, with corroborative testimony that his facts are accurate.

We also have another application here, your Honor, that I would like to present.

Mr. Horsley: May the record show, your Honor, that on behalf of the defendant William C. Dunham, I have been handed another application to disqualify the judge. This is the first time that I have seen it.

The Court: The record may also show that the court has just been handed a similar application, and I am now about to read it.

42 The application to disqualify the judge, now presented for the first time, on the basis that Briggle might be called as a witness in the case, is obviously presented just for the purpose of delay and for the purpose of obstructing the due administration of justice; and that application is overruled.

Mr. Giffin: If the court please—

The Court (Continuing): Now, I will say in connection with that, that if there are any facts—I know of no fact that this court can testify to that can't be proved by a dozen different witnesses or by matters of record in this court—but if there are any facts that this court is expected to testify to, if you will submit what those facts are in writing, if they are true and accurate, they can, no doubt, be admitted by the trustee.

You state nothing in your application as to what the facts are; it is just a vague affidavit that Briggle will be

A. Correct, yes, sir.

Q. Did you have any further contact with Mr. Knetzer after that?

A. One time passing through Edwardsville at a restaurant called Musso's on the square.

Q. Do you remember where it was? When?

A. No, sir, I don't. It could have been two weeks or two months after the bankruptcy. I would say it would be more like two months because the bankruptcy more or less quieted down, I mean there wasn't anything—

Q. Did you make inquiry at that time about your money?

A. No, sir, I ran into Mr. Knetzer, as I came out of
82 the restaurant Mr. Knetzer was standing outside. I talked to him a few minutes, and that day was the last I saw of him until he called me two years later.

Q. What was the date of that?

A. December 6, 1950, in the evening.

Q. That was some approximately two years later?

A. Safely two years, yes, sir.

Q. And what was done pursuant to that telephone call, if anything?

A. You mean following the phone call?

Q. Yes.

A. He requested me —

Mr. Horsley: I object to any conversation between this man and Knetzer.

The Court: Is that the same objection you made before?

Mr. Horsley: That is an additional objection as to conversation that he, first, isn't competent to testify in the case, secondly, the objection is that no conversation with Knetzer can be binding on the trustee. It would be pure hearsay.

called as a witness in the proceeding; and I take no stock in it at all, except that it is filed for the purposes of obstructing justice.

Mr. Giffin: But, if the court please, obstructing justice—this is not a criminal matter.

43 The Court: There is lots of justice available in civil matters, as well as criminal, Mr. Giffin.

Mr. Giffin: I appreciate that; but here we have the person, the party whose affidavit has been submitted, the petitioner in this court to reclaim money. It is not a frivolous claim; it involves a large sum of money. Here we have an attorney for the trustee that lets an entire year go by without responding to pleadings.

The Court: I don't care to listen to that harangue. Your motion has been denied.

Do you care to present anything on the motion to compel the trustee to state more specifically the matters of his first affirmative defense?

Mr. Giffin: I think, your Honor, we would like to have Mr. Jaffke take the stand and be sworn. I think we have to take a record if we are going to an appellate court, to a court of appeals, on this matter.

The Court: I don't care to hear any evidence. I will now call upon you to submit your—

Mr. Giffin (Interposing): I would just like that record made that the court would not permit any evidence to be introduced on the affidavit. I am sorry your Honor.

44 The Court: Counsel offers to call the maker of the two affidavits that have already been passed upon, offers to call the affiant to the witness stand; is that what you are wishing to do?

Mr. Giffin: The court, in his denial of the affidavit, said that they weren't fact, that they were just conclusions.

The Court: The statute provides you are only entitled to present one affidavit. You have already presented two, and I will not hear any further testimony from the

Mr. Bonjean: We think this clearly comes under an exception to the hearsay rule, for which I will submit
83 authority to the court.

The Court: I am not too positive about it. I think I will permit it to go in, and all of which may be stricken if the—

Mr. Horsley: The additional objection at this time is to conversation before the payment of any money or before the title is passing to the trustee, and I am making that specific objection that it is purely hearsay evidence and not binding on the trustee.

If there are any admissions in this testimony, those are likewise not binding on the trustee.

The Court: All right. You may proceed.

Q. At that time, Mr. Jaffke, tell the court what took place between you and Mr. Knetzer at the Sheraton Hotel.

Is that where you met?

A. In the lobby of the Sheraton Hotel.

Q. Was that at his instruction?

A. Yes.

Mr. Horsley: The same motion to strike will run?

84 The Court: That's true.

A. He confronted me with a report of a large scale building operation which he had under process, which involved the reactivating of a large Air Base near Great Falls, Montana, and would create a terrific housing shortage for the personnel coming into that Base. He explained it as being a mess due to the Korean crisis, stating there was a war scare coming up, "the government is going to enlarge this," enlarge this Air Base as a safety feature, and a housing shortage was definitely there, that he was working on the possibilities of procuring this loan and the development of this housing.

Q. What loan?

affiant. That petition is denied. I give to you whatever record you want.

Do you care to be heard on this other matter?

Mr. Giffin: We do not desire to be heard on the motion.

The Court: The motion to make more definite and certain is overruled; and the case has already been set for trial for October 8 at 2:00 o'clock. Please be ready at that time.

You may call in the jury, Mr. Bailiff.

Mr. Horsley: Your Honor, may I present one short matter?

The Court: Yes.

45 Mr. Horsley: In the matter of the reclamation petition in No. 11-789, I have prepared findings of fact, conclusions of law and an order thereon. I would like to just leave this with your Honor so you can leaf them over at your leisure.

The Court: Have you furnished counsel for the petitioner a copy?

Mr. Horsley: I furnished counsel for the petitioner a copy and notified them that they would be presented today at 2:00 p.m. on this date and that if they had any objections or any additional suggestions, they can communicate it to the court.

(Whereupon, at 2:25 o'clock p.m., September 24, 1954, the hearing was closed.)

46 STATE OF ILLINOIS }
COUNTY OF COOK } SS:

Doyne W. Spencer, being first duly sworn, on oath says that he is a court reporter doing business in the City of Chicago; that he reported in shorthand, as the official reporter, the proceedings at the said hearing, and that the foregoing is a true and correct transcript of his shorthand notes so taken as aforesaid, and contains all of the proceedings had at the said hearing.

/s/ DOYNE W. SPENCER.

Subscribed and sworn to before me this 30th day of September, A. D. 1954.
(Seal) /s/ JULIAN R. HALL.
Indorsed, Filed Oct. 6, 1954.
G. W. SCHWANER, Clerk.

ASSIGNMENT OF JUDGE

47 (Entered October 8, 1954.)

48 In the matter of the above petition against the trustee in bankruptcy, assignment is hereby made to the Honorable J. LeRoy Adair, one of the judges of this court for hearing and disposition.
October 8, 1954.
/s/ Chas. G. Briggle
United States District Judge
Indorsed
Filed Oct. 8, 1954
G. W. Schwaner, Clerk.

TRANSCRIPT OF PROCEEDINGS

49 October 14 & 15, 1954

50 TRANSCRIPT OF EVIDENCE taken and proceedings had in the trial of the above entitled cause before the HONORABLE J. LEROY ADAIR, one of the Judges of said Court, in his court room in the United States Court House at Springfield, Illinois, on the 14th and 15th days of October, A. D. 1954, beginning at the hour of 2 o'clock p.m. on Thursday, October 14, 1954.

54 The Court: Are you ready to proceed, gentlemen, on both sides?

Mr. Bonjean: Yes, Your Honor.

Mr. Giffin: If the court please, on this letter regarding the subpoena on Mr. Cohn, I am wondering if I could chat with counsel about a stipulation.

The Court: Yes, you may do anything you want to about this.

(Discussion off the record)

The Court: Is the witness ready to testify?

A. It was, I think, the corporation.

Mr. Horsley: I object to this unless he knows of his own knowledge.

Mr. Boujean: He told him this.

Mr. Horsley: He isn't saying that.

Q. Say what he told you.

A. Knetzer showed me a charter of the corporation he had formed.

Q. What was the name of that corporation?

85 A. Called the Bison Mining & Development Company, and he listed the members of this corporation for me, that they were all well to do men, that he himself was just the manager, but he had an influential man who was arranging a loan for them for this corporation, to be used for the purpose of building these houses. It was a large scale operation. He told me it would run into two years before it was completed.

Q. Did he make any representations to you at that time with respect to the need of any money?

A. Yes, he said that he had considerable expenses, said he couldn't operate sooner than he did because of a huge government tax lien against him, which he had recently had rejected or thrown out. I don't know just the word he used, but he represented a man by the name of John Snyder as having beat that tax claim for him, and now that the tax claim was out of the way he was free to go ahead and swing this deal and make money for everybody interested in it, and listed the members, and he walked to the phone to call one of them to verify it for me, but I told him that wasn't necessary because at that very moment I wasn't planning on listening to his operation but, the more
86 he talked, the more likely it sounded. He had just finished a similar building deal which was promising to show 50% return, and money undoubtedly was being made in the building business, so we left then with the understanding that I would meet him in the morning, but still hadn't decided to give him any money.

Mr. Bonjean: Your Honor, in order to clear the air on this matter (because there has been so much odium attached to prior proceedings dealing with the Knetzer affair), I would, with the permission of the court, like to have the privilege of making a brief statement, —.

The Court: That's all right.

Mr. Bonjean:—to Your Honor about this case.

Mr. Horsley: Before you do that, would you mind, for the purpose of the record, that we suggest to the court the death of Robert L. Knetzer on August 26, 1953, and that at the time of his death he left him surviving a widow and two minor children, which are minors at the time of this hearing?

55 The Court: Is there any objection to that suggestion? We had that up the other day in the other matter.

Mr. Bonjean: Did you contact those people?

Mr. Horsley: I had a certified copy of the marriage record and birth records that were introduced in the Riley trial.

Mr. Giffin: You didn't intend to bring them as witnesses to this hearing, did you?

Mr. Horsley: I had certified copies which I can produce here today, if need be.

Mr. Giffin: There is a child by the former marriage and a child by the wife at the time of decease.

What would you think of dismissing Knetzer as a party?

Mr. Horsley: That's, of course, none of my affair, but I think it should be understood by the court that Knetzer is dead, and that he left a widow and two minor children. I am prepared to prove that by the certified copies if you want them.

The Court: They are already filed in the other case we heard the other day, aren't they?

Q. Was Mr. Knetzer accompanied by anyone at that time?

A. No, he was definitely by himself, and I even asked him about that because a short while before that I had noticed in the paper that he was supposed to be in the custody of a marshal, and I did ask him about it, and he said it was all paper talk, that definitely wasn't true, that all he had to do was from time to time report as to his whereabouts, and from then on for the next four weeks I can safely say I did not see him at any time in the company of or handcuffed or otherwise to a marshal. Had I seen it at that time, I might have been—

Mr. Horsley: I object to that.

The Court: That may be stricken.

Q. Just state what the conversation was and what you did.

A. I asked him about when this corporation had been formed, when it was started, and he said that he had
87 started on his deal in 1949 and, as I remember, I think he formed the corporation in 1950.

Q. Now, did you meet him the next morning?

A. I met him the next morning.

Q. Where did you meet him the next morning?

A. On 7th and Olive Street.

Q. In St. Louis?

A. That's right. We had a cup of coffee together in a drug store, and he talked some more.

Q. What took place at that time?

A. After he convinced me it was a good deal,—

Mr. Horsley: Object, and move to strike it.

The Court: It may be stricken.

Q. Did you believe the representations he made?

It's a question of whether you want to dismiss.

Mr. Bonjean: If we may, Your Honor, we will determine that. We should decide that now, I suppose.

56 The Court: We can allow this suggestion.

Mr. Bonjean: Then we can determine that later on.

The Court: Suggestion of the death of Robert L. Knetzer is entered and the survivors of the said Robert L. Knetzer, deceased, are Violet Knetzer, the widow, and two minor children, —

Mr. Horsley: Yes, Your Honor.

The Court: —namely, — Do you know them? Michael and Robert?

Mr. Horsley: I will have to go into the Clerk's office. Can we show that is by agreement?

(Discussion off the record)

Mr. Horsley: There is Kathleen Mary Knetzer, daughter by the first wife.

The Court: Now, what else do we have?

Mr. Bonjean: As I stated to the court, I would like the privilege of making a short, brief statement.

The Court: That's all right.

64 The Court: Do you care to make a statement?

Mr. Horsley: No, I don't want to make any opening statement.

The Court: This is a claim filed before the Referee, is that true?

Mr. Horsley: A reclamation suit.

Mr. Giffin: Filed to the District Judge.

The Court: I am asking for my own information.

Mr. Bonjean: For the court sitting in bankruptcy.

The Court: You attempted to file another suit?

Mr. Giffin: A plenary suit on the District Court side.

65 The Court: You are now basing this on a claim?

Mr. Bonjean: The court determined we had submitted ourselves to the jurisdiction of the court, and had no right to file a plenary suit.

The Court: You may call a witness.

Mr. Bonjean: We do have a lot of documents to be admitted in evidence that were considered in the jury trial, and we have that file here.

To save time, I am wondering if we can stipulate to the admissions of the turn over order, turnover order of July 11, 1949.

Mr. Horsley: No objection.

The Court: They may be admitted. Number 1.

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 1 for identification and admitted into evidence)

Mr. Giffin: Number 2 is a report of the trustee.

The Court: Any objection?

Mr. Horsley: No objection.

The Court: It may be admitted under the same number. That is what? 2?

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 2 for identification and admitted into evidence)

66 Mr. Giffin: Number 3, the order to show cause, entered on November 2, 1949.

The Court: Any objection?

Mr. Horsley: No objection.

The Court: It may be admitted.

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 3 for identification and admitted into evidence)

Mr. Giffin: The contempt citation as entered in the bankruptcy case on December 1, 1949.

The Court: Number what? 4?

Mr. Horsley: Those are properly before the court.

The Court: There might be a question of an appeal or something of that sort, that it might be entered here.

Any objection?

Mr. Horsley: No objection.

The Court: It may be admitted.

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 4 for identification and admitted into evidence)

Mr. Giffin: Number 5 is March 25, the finding of facts by the court on the contempt citation.

The Court: Any objection? It may be admitted.

67 (Whereupon said document heretofore referred to was marked Petitioner's Exhibit 5 for identification and admitted into evidence.)

(Discussion off the record.)

The Court: Are you withdrawing that offer?

Mr. Giffin: It may not be here.

The Court: If you make it, all right.

Mr. Giffin: 5 would be the petition as filed in this court for an order vacating the commitment for contempt.

Mr. Horsley: That I most certainly do object to as being a self-serving document of the bankrupt Knetzer, which cannot be in any way binding on his trustee.

The Court: That was what petition?

Mr. Giffin: Filed by the bankrupt, stating that he had no assets.

The Court: When was that filed?

A. No, it was a payment to be made to the court on his bankruptcy account of some $250,000.00 and which he had agreed to turn into court.

Q. Which he told you he had agreed to return into court?

A. We discussed that the first night to some little extent. He said that the he had signed such an agreement under duress.

Mr. Horsley: Oh, I object to that.

The Court: Yes.

A. He told me—

Mr. Horsley: I object to this.

91 The Court: Sustained to what he told you about why he signed any statement.

Q. You gave him some more money two hours later? How much did you give him then?

A. I give him $3800.00 toward payment to the court, which he said would give him ample time to do all he had to do to complete the deal and approval of the loan.

Q. So on this day you gave him a total of $6100.00, is that right?

A. $6100.00 in two payments some two hours apart. Do you want my receipts?

Q. Do you have receipts for those payments?

A. (Witness produces documents.)

Mr. Bonjean: Will you please mark these as Exhibits 10, 11, 12, 13, 14 and 15?

(Whereupon said documents heretofore referred to were marked Petitioner's Exhibit 10, Petitioner's Exhibit 11, Petitioner's Exhibit 12, Petitioner's Exhibit 13, Petitioner's Exhibit 14 and Petitioner's Exhibit 15, respectively, for identification.)

Q. I hand you herewith Petitioner's Exhibit 10. Tell the court what that is.

Mr. Giffin: That was filed April 11, 1950.

The Court: Was that after this proceeding you are talking about here?

Mr. Giffin: Yes, sir.

The Court: Why would it be important?

Mr. Giffin: As to—It was at the hearing on that
68 petition that the trustee testified, and there was also admission at that time by the bankrupt, that he had borrowed large sums of money from various individuals, apprising the trustee that Knetzer was going out obtaining loans at that time in an endeavor to raise money to pay on the turnover order.

Mr. Horsley: We object to that as being hearsay. If it is an admission of the bankrupt (and I don't believe it is) it would not be admissible against his trustee. It comes after the incident of which complaint is made here.

Mr. Giffin: We can withhold our offer.

The Court: I think you had better do that.

Mr. Giffin: My point is it is a record of this court where the trustee and his attorney cross examined the bankrupt at an open hearing.

The Court: Is it identified?

The Clerk: I don't have it here.

The Court: You can think that over.

There is no offer, then?

Mr. Bonjean: No offer at this time.

(Discussion off the record.)

Mr. Giffin: I have a verified petition of the bank-
69 rupt after the loans were obtained from this claimant, March 11, 1952, that is a petition to purge the bankrupt of contempt.

I think that's all we need to work with right now.

A. Maybe we had better make a correction right away. I notice the bank was called "Mercantile Com-
92 merce Bank." Since that time it has been changed to the Mercantile Trust. It is one and the same.

It shows—

The Court: Not what it shows. What is it?

A. Bank check of Mercantile Trust Company.

Q. What date did you withdraw $2300.00 from that bank?

A. December 7. This deposit shows—

Mr. Horsley: Object to what it shows.

The Court: Yes.

Q. December what?

A. December 7 I withdrew two checks.

Q. Was that 1950?

A. 1950.

Q. You withdrew one amount of what? $2000.00? State what you did do.

A. One check for $2300.00 and one for $3800.00.

The Court: It is the check book that compares with the checks you are going to offer? You wouldn't need any explanation.

Q. I note on the day of December 7, 1940, the withdrawal shown.

93 That is a deposit.

Q. Deposit of $2000.00?

A. That's my collateral loan I made. That is the yellow sheet you have.

Q. I will hand you herewith Petitioner's Exhibit 14. State what that is.

The Court: All right. You may proceed, gentlemen.

WHEREUPON the petitioner, to maintain the issues in his behalf, offered the following evidence in chief, viz:

ROBERT W. JAFFKE, the petitioner, called as a witness in his own behalf, and having been first duly sworn, testified as follows, in answer to Direct Examination by Mr. Bonjean:

Q. State your name, please.

A. Robert W. Jaffke, J-a-f-f-k-e.

Q. And you are the petitioner in this cause?

A. Yes, sir.

Q. Where do you live, Mr. Jaffke?

A. 6200 Chippewa Street, St. Louis, Missouri.

Q. How old are you, Mr. Jaffke?

70 Mr. Horsley: At this time I wish to interpose an objection to the testimony of this witness as being an interested party and not qualified to testify in this case under Section 2 of the Evidence Act of the State of Illinois, and under the rules of evidence of the United States Supreme Court and the statutes applicable to this matter.

The Court: You are referring especially to the "dead man's statute?"

Mr. Horsley: Yes, sir.

The Court: At this time it will be overruled. Go ahead. I can feel a little more at liberty to try a case without a jury because I will permit both of you to submit a brief on the matter.

Mr. Horsley: So I don't prolong this hearing, have it considered as a running objection.

The Court: I think you may do that. We can do that much easier when there isn't a jury than where there is.

Mr. Horsley: And a motion to strike each answer.

71 The Court: That's right.

Mr. Horsley: And I can cross examine without waiving any rights to get it in the record? Is that agreeable?

The Court: Yes.

Mr. Horsley: I won't make any further objection under the "dead man's statute" to this testimony.

The Court: The court will enter your objection to the class of testimony being entered.

Q. (By Mr. Bonjean.) What is your business or occupation? Your age?

A. Forty-one.

Q. What is your business or occupation?

A. General insurance and real estate loans.

Q. In the city of St. Louis?

A. Yes. 6454 Marmaduke.

Q. Is that in an office—

A. In my mother's home. I have my desk space in my mother's home.

Q. How long have you been engaged in that business?

A. I have been in business for myself since 1939.

Q. Are you duly licensed in the State of Missouri as
72 an insurance broker?

A. As an insurance broker, yes, sir.

Q. Do you have any family, Mr. Jaffke?

A. I have a little girl nine and my wife.

Q. Are you living with your wife and child?

A. Living with my wife and child, with her mother and father. Since this episode we have sold all our property, and are living with the mother and father.

Q. Calling your attention to on or about the year 1948, did you have any business dealing direct that were with the Knetzer Motor Sales of Edwardsville, Illinois?

A. On or about?

Q. Yes.

A. My first dealings with Knetzer were when I went over to his place in June of '47 to buy a car for my brother Dick, who had recently been released from the Army. We were unable to buy a car in St. Louis at a regular price. Mr. Walker, who had worked for Knetzer, who did work for Knetzer, who formerly worked under a cousin of mine at Emerson——This cousin knew we were looking for an automobile, and he recommended that we go to the Knetzer Auto Sales, see Mr. Walker and give his name as a
73 recommendation to get an automobile, which I did with my brother Dick.

Q. Did you meet Mr. Knetzer on that occasion?

A. No. I talked to Mr. Walker.

Q. Did you leave a deposit for an automobile at that time?

A. I wrote my check out for $1300.00 as a deposit for a car, and had him draw a receipt up in my brother Dick's name. I have the receipt and cancelled check with me here.

Q. Do you have them with you?

A. Yes.

The Court: Let me interfere with your line of questioning. I am absolutely unfamiliar with this case, but this was a claim filed before the Referee that we are now hearing?

Mr. Bonjean: That's right.

The Court: And Judge Briggle was a referee?

Mr. Bonjean: Yes.

The Court: In what position am I?

Mr. Bonjean: As the District Court sitting as referee.

74 The Court: Who do you file your certificate for review before? Suppose one would want to appeal from a referee's finding. Where would it go?

Mr. Bonjean: As I understand it, the referee and the court are merged in a proceeding of this kind.

The Court: Is that agreed?

Mr. Horsley: I think it is agreed any appeal here would have to go to the Circuit Court of Appeals.

The Court: I think it should. I don't mind sitting as a referee.

Mr. Bonjean: You are sitting in a dual capacity, in my opinion: As referee merged with the court.

The Court: It's new to me. If I am sitting, I am sitting as a District Court, as you gentlemen all understand it, and as a referee as well?

Mr. Giffin: If this will be any help, this petition, rather than being filed in the District Court, was directed to
75 the judge himself, to Judge Briggle.

The Court: As referee, wouldn't it be?

Mr. Bonjean: He had assumed jurisdiction of this cause as the court sitting in bankruptcy, and took it away from the Referee.

The Court: When the court does that, then he becomes both the court and the referee?

Mr. Horsley: That is the way I understand it. We certainly won't take any advantage of that thing. I believe any appeal would have to lie to the Circuit Court of Appeals from your decision.

The Court: All right.

The Witness: There is the check.

Mr. Bonjean: Please mark this as Petitioner's Exhibit 1 for the purpose of identification—Exhibit 5, and this receipt Exhibit 6.

(Whereupon said documents heretofore referred to were marked Petitioner's Exhibit 5 and Petitioner's Exhibit 6, respectively, for identification.)

Mr. Horsley: One thing I would like the record to
76 show at this time: In addition to this reclamation petition, this man also has a claim pending in bankruptcy for, I believe, $11,300.00.

Mr. Bonjean: That's right.

Mr. Horsley: This hearing today has nothing to do with that claim for $11,300.00.

Mr. Bonjean: We would like to offer this as preliminary because there has been much innuendo and charge in this action of this man knowing about Jaffke's activities and, by innuendo, indicating he was a part of those activities.

We want to show his connection with the Knetzer Motor Sales was innocent, the same as any other creditor who filed a claim in this court.

This is a check for car and tractors.

The Court: And that is the only purpose?

Mr. Bonjean: That is the only purpose.

That should be 7, 8, 9.

(Whereupon said documents heretofore referred to were marked Petitioner's Exhibit 7, Petitioner's Exhibit 8 and Petitioner's Exhibit 9, respectively, for identification.)

77 Q. (By Mr. Bonjean.) I hand you herewith Petitioner's Exhibit number 5, and state to the court what that is.

A. That is the check to Robert L. Knetzer for $1300.00 on June 17, 1947. It's marked as "Deposit for 1947 or 1948 Buick."

Q. Will you state to the court what Exhibit 6 is?

A. This is a receipt dated April 8, 1948, for "Received from Richard Jaffke $1300.00 deposit on '48 Buick to be delivered by April 20, 1948, or money refunded." There is a difference in that date of that receipt and my check, which is accounted for in this way: My original receipt was signed by Mr. Walker, and Knetzer, at the time I put money up on the tractors, called that receipt in and gave me a new one and replaced the one signed by Walker, but it is for the same amount and the same automobile.

Q. After you made this deposit for this automobile, did you have any further dealings at that time with Knetzer Motor Sales or Mr. Knetzer?

A. From somewhere around March of 1948 I was over there to see about delivery on a car. There were several tractors sitting on the floor, and at the time I had an interest in a farm in South Dakota and we had—we were
78 in dire need of equipment, and at that time I was talking to Mr. Walker and asked him about the tractors, and he said yes, they were for sale.

Mr. Horsley: I certainly object to any testimony—

The Court: Objection to conversation is sustained.

A. In other words, I deposited $3,000.00 for three tractors for my own use in South Dakota.

Q. I will hand you herewith Petitioner's Exhibit 9. State what that is.

A. This is a check for the deposit for those three tractors.

Q. Then after that did you have any further dealings with Mr. Knetzer or the Knetzer Motor Sales?

A. In April I deposited $7,000.00 for seven more tractors after Knetzer approached me in St. Louis.

Q. How long before that had he approached you in St. Louis?

A. The day before that evening.

Q. Was the price that you had deposited for these tractors the list price on them or not?

A. They were to sell at the list price, which was
79 approximately $1600.00, $1636.00, somewhere in there more or less.

Q. I hand you herewith Petitioner's Exhibit number 7. State what that is.

A. That is the check for seven thousand to Knetzer Motor Sales for those tractors.

Q. Can you explain to the court what Exhibit 8 is here?

A. 8 is a receipt for ten thousand, which is for the total of the two deposits I made on the tractors, one for seven and one for three. He combined both of them on one receipt.

Q. After that, did you have any further business dealings with Mr. Knetzer prior to his bankruptcy?

A. No, other than to approach me—him—for my equipment or the return of my money.

Q. Did you ever receive the equipment?

A. No, sir.

Q. Did you ever receive a return of your money?

A. Nothing.

Q. How did you learn, if you did, of the bankruptcy of Mr. Knetzer?

A. I was coming home from a fishing trip in Minnesota, stopped at a little town for breakfast, and the St.
80 Louis Morning Globe was laying on the counter.

Q. That was in what year?

A. October of 1948.

Q. And after that did you make any effort to contact Mr. Knetzer or did he contact you about that year?

A. Knetzer didn't contact me, no, but I wrote two letters, one to Manuel Wiseman and Philip Listeman of Alton.

Q. Who were these people?

A. Attorneys whose names I received out of the paper, supposedly representing Mr. Knetzer in this bankruptcy.

Q. What was your purpose in writing him?

A. I wrote those in an attempt to—

Mr. Horsley: Object to what his purpose was. It is self-serving.

The Court: I don't see how he can testify to what he wrote officials. Objection sustained.

Q. Did you employ counsel to represent you at that time?

A. That's correct.

Q. Who did you employ?

A. The firm of Hoffmeister & Gilpin.

Q. Are they a St. Louis law firm?

A. Yes, 1138 Paul Brown Building, St. Louis, Missouri.

81 Q. Had they always represented you in your legal matters?

A. Yes, sir.

Q. What did they do pursuant to your instructions?

A. They filed a formal claim with Mr. Horsley, where the bankruptcy was at that time, and all further correspondence was taken up with my attorneys.

Q. Was that a claim that you filed with the bankruptcy court for the $11,300.00?

A. Correct.

Q. That you had deposited for the vehicles that you have described?

A. Yes.

Q. Did you believe the representations that he made to you as being—

Mr. Horsley: Object as calling for a conclusion.

Mr. Bonjean; I think it is important whether he believed it.

The Court: I think he may answer it.

A. Yes, I did believe it.

88 Q. You may proceed.

A. I went across the street and withdrew—withdrew $2300.00, a collateral account in the Mercantile Trust Company which I could increase or decrease, a collateral account, a high credit of some $40,000.00 which I used up or down as I saw fit, and at that time I didn't have sufficient money in my account so I borrowed the money in my collateral account. It was credited to my account. I issued it to myself, took it over and cashed it and gave it to Mr. Knetzer.

Q. How much?

A. $2300.00.

Q. Did he give you anything?

A. Yes, a receipt to be accounted for, $2300.00 to be accounted for, and signed it "Robert L. Knetzer."

Mr. Horsley: Object unless we have a receipt, the receipt.

Mr. Bonjean: We will explain that it was joined with another receipt at a later date.

Mr. Horsley: I am going to move to strike that.

The Court: It may be stricken.

Mr. Horsley: And I have a particular reason for
89 that motion.

The Court: It may be stricken.

Q. Do you have that receipt?

A. I haven't that particular receipt, no, sir.

Q. Can you account for what has happened to that receipt?

A. Yes, because from time to time he secured additional money from me, and each time he secured additional money the old receipt was destroyed and he would give me a new receipt in full for the entire amount.

Q. In proper time can you produce to the court here receipt for the total amount that he received from you?

A. Yes.

Mr. Bonjean: I am leading up to that. That is the reason I didn't offer the receipt at this time.

Mr. Horsley: The first payment was $2300.00?

Mr. Bonjean: $2300.00.

Q. What was the date of that payment?

A. December 7.

Q. When was the next time you made a payment to him?

A. About two hours later the same date.

Q. Tell the circumstances of that.

90 A. I took the first payment with me and went up to an office of a man named John Snyder. He represented Mr. Snyder as being his accountant and tax man and also interested in this particular deal. Knetzer himself went into the office of Mr. Snyder, and I stayed outside in the waiting room, and after some time, supposedly twenty minutes or so, he came back out and we went downstairs, and he said that Snyder had given him some bad news. I said, "Now what?" He said the court was requiring a payment of $5000.00 which would have to be paid at once.

Q. Did he tell you what the nature of that payment was?

A. This is the collateral note I signed for the $2000.00 shortly before I drew a check for $2300.00.

Q. On what date?

A. December 7, 1950.

Q. And then I hand you herewith Petitioner's Exhibit 15. State what that is.

A. That's a collateral note on the same bank, on December 7, 1950, for thirty-five hundred.

Q. Was that a withdrawal?

A. That's a collateral note.

Q. Are those—Is that—The money you got on those notes, did you write checks?

A. I wrote a check against each one, yes, sir.

Q. I hand you herewith Petitioner's Exhibit 11. State what that is.

A. That's a check for thirty-eight hundred that I wrote against the collateral loan for thirty-five hundred.

94 Q. Here is Petitioner's Exhibit 12. State what that is.

A. This is a check for $2300.00 which I wrote against the collateral loan of $2000.00.

Q. What did you receive for the checks, 11 and 12?

Mr. Horsley: Object in addition to the other reasons given, it's purely a self-serving statement on the part of the petitioner.

The Court: He may answer. Objection overruled.

A. The money was given to Mr. Knetzer.

Q. Was it by check or cash?

A. By cash, cashed at the bank and taken and given to Mr. Knetzer.

Q. Here is Petitioner's Exhibit 13. State what that is.

A. That's my banking statement for December of 1950, shows the two collateral —

Mr. Horsley: I object.

Mr. Bonjean: It speaks for itself.

The Court: Yes.

Q. Did you see Mr. Knetzer—When is the next time you saw him after that, if you did?

A. I saw or heard from him from time to time, almost every day, whether it would be for a couple of minutes or just a short call, to assure me everything was going along all right.

Q. On what?

A. On the deal, everything was progressing.

Q. What year was this in you are talking about now?

A. This was December, 1950.

Q. 1950, and each time you saw him day by day was he ever in any person's custody or accompanied by anyone?

A. At no time.

Q. Did you have any other financial dealings with him during the month of December, 1949? 1950?

A. Sometime the 10th, 11th or 12th of December Mr. Knetzer had me meet him at the airport, and at that time he had another man with him and introduced this man as another member of the corporation, and named him as being Mr. Ralph Riley.

Q. Is he in this court room today?

A. Mr. Riley is here.

Q. Is he in the room at the present time?

A. He just stepped out.

Q. Is he the same Mr. Riley who had a —

A. Same party.

96 Q. And had you ever met Mr. Ralph Riley before this time?

A. No, sir, I hadn't.

Q. You met him on what date for the first time?

A. I couldn't be sure of that. Mr. Riley might know. But somewhere from the 10th, 11th or 12th of December of 1950. I was called from my home to meet Mr. Knetzer at the airport, and he had this man with him. He had previously given me the name of Riley as being a member of the corporation, and I think he just wanted me to meet him.

Q. Did you meet him?

A. Mr. Riley, yes, sir.

Q. Did you have any conversation with him?

A. No, other than the normal conversation.

Q. Just greeted him? Just met him?

A. Yes.

Q. Did you have any conversation at that time with Mr. Knetzer?

A. Mr. Knetzer took me into the coffee shop for a cup of coffee and left Mr. Riley by himself, and had a few minutes' conversation with me about Mr. Riley being the man that was heavily invested in this corporation, and was on some paper, some of the paper, and knew what it was
97 all about. We then came out of the coffee shop, went back to where Mr. Riley was going, Mr. Knetzer escorting Mr. Riley out. I got in my car and come back home.

Q. Did you have any further meetings with Mr. Knetzer after that?

A. Yes.

Q. What was that? Give the date, the date and the place.

A. I don't know the date but it was before the 13th of December because he then approached me for more money on this project.

Q. What did he say that he needed the money for, if he did?

A. From time to time he used various reasons, but on this particular one I think they were needing additional assets to show in the corporation for — to get the approval of this loan; in other words, the corporation had to show something as being money on hand to get a loan approved of any size.

Mr. Horsley: I want to make at this time the further objection and move to strike on the ground that this is conversation had after bankruptcy, is a conversation
98 had after the title to some money has supposedly passed to the trustee, and is in derogation of that title, contrary to all of the rules of evidence that a bankrupt cannot testify in derogation of the trustee's title after the title has passed to the trustee.

Mr. Bonjean: This money was paid all during the year 1951.

The Court: I think the motion will be overruled. He may answer. I am perfectly willing to listen to these objections after it is over.

Mr. Horsley: May I have it as a running objection at this time?

Mr. Bonjean: We understand that.

Mr. Horsley: And a running motion to strike?

Mr. Bonjean: That's all right.

The Court: Yes.

Q. How much did he say he needed?

A. Twelve thousand five hundred.

Q. Did you consult anybody as to the advisability of putting further money in this business?

99 A. Before I put any money in the bank, I approached my brother.

Q. Is your brother here?

A. Yes, he is here.

Q. Is that he sitting here (indicating)?

A. Yes.

Q. What business is your brother in?

A. He is vice president in the real estate department of the Mercantile Trust Company.

Q. Of what? Where is the Mercantile Trust Company?

A. St. Louis, Missouri.

Q. You did consult with him, you say?

A. That's right.

Q. What did you do pursuant to this demand of Knetzer for $12,500.00?

Mr. Horsley: I don't believe there was any demand.

Q. Did you testify he asked for $12,500.00?

A. Yes.

The Court: "Requested it," I think he said.

Q. Go ahead.

A. I approached one of my loan clients, and asked him if he could help me out.

Q. Who is that loan client?

100 E. B. Dierkes.

Q. Is he here today?

A. Yes. 3648 Meramec Street.

Q. What kind of business did you handle for Mr. Dierkes?

A. Investments, deeds of trust, mortgages and insurance.

Q. Tell the court what you did with respect to the $12,500.00.

A. I told Mr. Dierkes I was interested in a project and needed some help, and if he wanted to give it to me.

Mr. Horsley: I will object to this witness's testimony —

Q. Did you obtain the $12,5000.00?

A. I obtained $12,500.00.

Q. From whom?

A. From Mr. Dierkes, E. B. Dierkes.

Q. How did he secure it?

A. He secured it from his bank in cash and gave it to me in cash.

Q. What did you do with that cash?

A. I turned it over to Mr. Robert Knetzer.

Q. On what date?

A. On the 13th of December, 1950.

Q. For what purpose did you deliver it to him?

101 A. For the purpose of consummating our deal for the Bison Mining & Development Company.

Q. When after that did you again have any business dealings with Mr. Knetzer, if any?

A. Do you want this (indicating document)?

Mr. Bonjean: Mark that as the last exhibit.

The Clerk: 14.

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 14 for identification.)

Mr. Bonjean: Will you mark this Exhibit 15, 16, 17 and 18?

(Whereupon said documents heretofore referred to were marked Petitioner's Exhibit 15, Petitioner's Exhibit 16, Petitioner's Exhibit 17 and Petitioner's Exhibit 18, respectively, for identification.)

Mr. Bonjean: We will withdraw Exhibit—Combine 16 and 17. Just withdraw 17.

The Clerk: Then this will be 17.

Q. I hand you herewith Petitioner's Exhibit 14, which appears to be a series of checks. Will you tell the court what those checks are for?

A. These checks from January 31, 1951, through June 29, 1954, of which there must be thirty of them are for—

Q. Who are they payable to?

A. Payable all to E. B. Dierkes, and are for interest and principal payments on the indebtedness of twelve thousand five hundred which I secured from him.

Q. Which you testified to?

A. Yes.

Mr. Horsley: I don't see the materiality.

Mr. Bonjean: It just verifies this man's statement about this loan.

The Court: Doesn't it show his loan?

Mr. Bonjean: These other instrments show the loan, but we want to bring all the evidence that had any probative value. This is the principal, this is the entire repayment of that loan.

The Court: Just the record of that loan?

Mr. Bonjean: Yes.

The Court: They aren't offered yet. Go ahead.

Q. I hand you Petitioner's Exhibit 16. State what that is.

A. That is the collateral note which I gave to Mr. Dierkes. It calls for the sum of $13,000.00, which was $12,500.00 for the principal and five hundred for the commission for the loan, and dated December 13, 1950.

Q. And is that the note that you gave him to represent the indebtedness of $12,500.00 that you borrowed from him that day?

A. Yes, and it lists the collateral which I gave him for this loan.

Q. And Petitioner's Exhibit 15, will you identify that?

A. This is a copy or duplicate, you might say, of the collateral note. This is a personal note signed by me in addition to the collateral note to Mr. Dierkes.

Q. For that same loan?

A. Same amount and same loan.

Q. Will you identify for the court Petitioner's Exhibit 17?

A. That is a duplicate of a bank deposit, which only shows that when some of the collateral was removed from Mr. Dierkes and sold to another party Mr. Dierkes received that certain principal on that same date.

Q. It shows payment of that loan?

A. That's right. $2500.00. The check is there.

Q. When was the next time after that you had any
104 business dealings with Mr. Knetzer, if any?

A. On the 18th of December, 1950.

Q. Where did that take place? If you met with him, tell the court what happened.

A. I met the day before and he again needed more money.

Q. Tell the circumstances of that meeting, and what was said between you at that time.

A. This time the loan was going slower than they figured on, there had been some notes issued on an option of some kind against the ground they were going to use for the building of these houses, and a note was due and had to be picked up and paid or the transaction might fall apart if the ground itself that they were figuring on was lost, and $7500.00 had to be paid on this note at that time.

That conversation was on the 17th of December.

Q. On each of these occasions, prior occasions, that you have testified to, did you receive receipts from Knetzer for the amount of money that you gave him?

A. Yes, each time he called in my old receipt and gave me a new one for the full amount he owed me.

Q. Tell the court what transpired this last time that you met him.

105 A. Well, I met Mr. Riley—

Mr. Horsley: What date are you referring to?

Q. December 18?

A. I met Mr. Riley around the 10th or the 12th.

Q. What Riley is that?

A. Ralph Riley, and I understood he was—

Q. Where did you meet him?

Mr. Horsley: Object to what you understood.

The Court: Yes. Where did you meet him?

Q. Where did you meet him?

A. I met Mr. Riley at the airport.

Q. Then did you—

A. So to satisfy myself—

Mr. Horsley: On the 18th?

Q. On the 18th what did you do, if anything?

A. On the 18th of December before giving Mr. Knetzer any additional money—

Q. Did he ask for additional money on the 17th?

A. Yes, seventy-five hundred.

Q. What did you do?

A. I phoned Mr. Riley person to person at a business in Hampton, Iowa, told him who I was and asked if
106 he remembered me. He said, "Yes, you are the man I met at the airport the other morning." I said, "The reason I am calling, Mr. Riley, is this fellow Knetzer is calling for some more money on this transaction, and I wanted to talk to you before I gave it to him." I said, "He gave me to understand that you were heavily invested in this deal." Mr. Riley informed me at that time that he thought it was a good deal and a big deal, and that he had considerable of his money in it.

Q. Then what did you do after that?

A. After that conversation I received the money from other loan clients.

Q. Who are they?

A. Miss Ida—

Mr. Horsley: I don't think it is material to go over this.

The Court: I think he can show where he got the money, but cut it down.

A. I borrowed the $550.00 from Miss Ida Wurst, 3724 Utah Street.

Q. St. Louis?

A. St. Louis, Missouri.

107 Q. Did you give her any security for that?

A. My personal note, that's all.

Q. Where did you get the rest of the seventy-five hundred, if you did?

A. I borrowed some money along in there from my brother, borrowing at the bank.

Q. Is he the brother in the bank today?

A. That's right, $2500.00 from William Jaffke, and I gave him my receipt for it.

Q. What did you do with this money then?

A. I turned that money over to Robert Knetzer.

Q. On what date?

A. On the 18th of December.

Q. For what purpose?

A. For the purpose of picking up this note, paying this note that was due against the option on this ground for the building of these homes they were—

Q. Then did you have any further business dealings with Mr. Knetzer after that?

A. On the 22nd of December I advanced $9,000.00 more to him on that transaction.

Q. State the circumstances of that.

A. A day or two previous to that he approached
108 me again that the loan was being held up for the purposes of additional assets and legal expenses and expenses for their influence man that was fronting for the loan, so I borrowed that money.

Q. Did you believe all these representations that you said Mr. Knetzer made to you?

Mr. Horsley: Object to that.

The Court: He may answer.

A. Certainly. I went out and borrowed the money.

Q. Proceed.

A. I borrowed the money from a Mrs. Laura Downing.

Q. Where does she live?

A. 6322 Potomac Street.

Q. St. Louis?

A. Yes.

Q. How much did you borrow from her?

A. $5500.00 from Laura Downing.

Q. Did you borrow anything else?

A. I gave Mrs. Downing a second deed of trust on a piece of property I owned on Magnolia.

Q. Do you have that deed of trust with you?

A. Yes, sir.

Q. You may continue.

109 A. Mrs. Downing gave me the $5500.00 on the presentation of that deed of trust on Magnolia single

flat. Additional money, I received twenty-five hundred from George Paul, 6324 Wenona.

Q. Who are these people, Mrs. Downing and Mr. Paul?

A. Mrs. Downing is one of my loan clients. Mr. Paul is an uncle to my wife. Here is Mr. Paul's check. Mr. Paul's loan was temporary because he had a mortgage due in a few days or a few weeks. He said I could use his money until his mortgage was due and, when the mortgage came due, to pay it off for him, which I did.

Q. This is—I hand you Petitioner's Exhibit 18. State what that is.

A. That is the $5500.00 note.

Q. To whom?

A. To Laura Downing, dated December 21, 1951, on 3439 Magnolia.

Q. Petitioner's Exhibit 19, state what that is.

A. That is the deed of trust that the note is secured by on the same property.

Q. I hand you Petitioner's Exhibit 20. State what that is.

110 A. It's a cancelled check payable to me from George Paul for twenty-five hundred on December 20, 1950, endorsed by me and cashed at his bank.

Q. What did you do with the money that you got? This $9,000.00?

A. I gave that to Mr. Knetzer.

Mr. Horsley: Is that December 22?

The Witness: Yes, sir.

Q. You said you got $5500.00 from one party and twenty-five hundred from Mr. Paul. Did you obtain another loan at that time?

A. I believe that's all. I had some carried over from farther up where I gave him seventy-five hundred. I had borrowed eight thousand, and I had some additional money from that, and I made that up from the other money I had.

Q. Did you ever borrow any money from Mr. C. L. Miller?

A. I borrowed money from Mr. C. L. Miller on the 3rd of January, 1951, $2,000.00.

Q. What did you do with that money? This $9,000.00 that you obtained?

A. That $9,000.00 was given to Robert L. Knetzer.

Q. On what date?

111 A. On the 22nd of December, 1950.

Q. For what purpose?

A. For the transaction of securing —

Mr. Horsley: I think this is a conclusion.

Mr. Bonjean: He gave it to him for a purpose.

The Court: I think he covered it. Oh, he may answer.

A. For the purpose of completing our transaction of securing the RFC loan and this contract to this building.

Q. To further that business he had described to you?

A. That is correct.

Q. Did he give you a receipt for that?

A. That's right. He increased the receipt that I had been holding.

Q. To reflect the new $9,000.00 loan?

A. Yes.

Q. When, if any time, after that did you have any other further business dealings with Mr. Knetzer? Give the place and time.

A. On the 3rd of January.

Q. Of what year?

A. 1951. I advanced $6,000.00 to Mr. Knetzer.

112 Q. And state the circumstances of that to the court. 3rd of January, '51, is that right?

A. That's correct: I borrowed $550.00 of this from Mary Boka, 3319 Chippewa Street. Miss Boka is a loan client. And two thousand was made up in two checks from C. L. Miller, an uncle of mine.

Q. Do you have those?

A. There is Mr. Miller's cancelled checks.

Mr. Bonjean: Mark that, please, 21 and 22. (Whereupon said documents heretofore referred to were marked Petitioner's Exhibit 21 and Petitioner's Exhibit 22, respectively, for identification.)

A. That is Mr. Miller's wife. She signs her name—

Q. State what Exhibit 21 is.

A. This is a check for $1,000.00 from C. L. Miller to myself.

Q. Covering the loan that you obtained from him that you have described?

A. On December 29, 1950.

Q. State what Petitioner's Exhibit 22 is.

A. That's a check from Mrs. Miller for a thousand dollars, payable to myself, for a loan.

Q. Did that cover the balance of that loan you
113 said you made from Millers?

A. That covers the loan.

Q. Did you obtain any other loans at that time?

A. Mrs. Clara Wills also advanced $2500.00 to me, but I didn't get that check until several days later, but she was in the same transaction with her aunt, Miss Boka. It was an aunt and a niece. Those two ladies, I gave them an $8.000.00 mortgage on an eight-family apartment that I own in St. Louis.

Q. Do you have that mortgage here?

A. Yes.

Mr. Bonjean: Mark that 23, please. (Whereupon said document heretofore referred to was marked Petitioner's Exhibit 23 for identification.)

Q. I hand you herewith Petitioner's Exhibit 23. State what that is.

A. It's a deed of trust signed by my wife and myself, payable to Mary Boka and Clara B. Wills.

Q. In what amount?

A. For $8,000.00 for money borrowed on January 2, 1951.

Q. What did you do with that money? That $8,000.00?

A. That money was turned over — $6,000.00 of that money was turned over to Robert Knetzer.

114 Q. Six thousand of it?

A. Yes.

Q. What was the circumstance of that turning over?

A. Needing more money on the transaction.

Mr. Horsley: I object to this. It's just a conclusion.

The Court: Yes. If you want it detailed—What was said?

Q. Tell what was said.

A. There was again additional money needed in the assets of the corporation for the approval of the loan.

Q. Did he give you a receipt for that?

A. No, I didn't get a receipt for that until a later date.

Q. Did you later get one?

A. That's right.

Q. You have that receipt with you that you will produce in due time?

A. Correct.

Q. Was there any time after that you had any further business dealings with Mr. Knetzer?

A. On the 8th of January he got a thousand dollars from me.

115 Tell the court the circumstances of that.

A. He needed additional money for attorneys' fees and such.

Q. Attorneys' fees for what? Did he tell you?

A. For transactions of the Bison Development Company which we had. I secured that money from Adolph Bohn.

Q. Who is Adolph Bohn?

A. Bohn is a pawnbroker and a client of the Hoffmeister, Tralles & Gilpin law firm.

Q. Did you give him any collateral to secure that loan?

A. Mr. Bohn took my receipts.

Q. What did you do with that money?

A. That money was turned over to Robert Knetzer.

Q. When? What date?

A. January 8, 1951.

Q. For what purpose?

A. For legal purposes for the Bison Mining & Development Company.

Q. Did you believe the representations he made to you at that time?

A. Correct.

Q. And on each of these occasions you have testified to?

A. Yes.

116 Mr. Horsley. Same objection as previously.

The Court: I understand.

Q. Did you give Mr. Knetzer any further money for the purposes of this Bison corporation?

Mr. Horsley: I want to object. It is leading and suggestive.

Mr. Bonjean: I will strike that question.

Q. Did you then have any further meetings with Mr. Knetzer?

The Court: I think we will take a recess.

(Recess.)

Mr. Bonjean: We have a police officer that needs to return to the county jail. We need him for the purpose of identifying an exhibit.

The Court: Do you have any objection?

Mr. Horsley: I have an objection to what he is going to testify to.

The Court: All right. You may swear the witness.

Mr. Bonjean: Will you please mark this Petitioner's Exhibit 24?

(Whereupon said document heretofore referred to was marked Petitioner's Exhibit 24 for identification.)

117 The Court: Swear the witness.

Mr. Horsley: Before we go ahead, if you expect to call Mr. Dunham as an adverse witness, would there be any chance of doing it today? He informs me he has to be in court tomorrow.

Mr. Bonjean: We do expect to call him. We will do our best.

The Court: We will try and arrange it for Mr. Dunham some way.

Mr. Horsley: It will be almost impossible for him to be here tomorrow.

RUSSELL WILSON, called as a witness on behalf of the petitioner, and having been first duly sworn, testified as follows, in answer to Direct Examination by Mr. Bonjean:

Q. Will you state your name?

A. Russell Wilson.

118 Q. Where do you live?

A. 516 West Kennedy here in Springfield.

Q. What is your business or occupation?

A. I am a detective sergeant, Springfield police department.

Q. How long have you been with the police department?

A. Seventeen and a half years.

Q. I hand you herewith an instrument marked for identification Petitioner's Exhibit 24, and ask you whether or not your name appears on that instrument as a notary public.

A. It does, sir.

Q. And do you recognize the other signature on that instrument?

A. Yes, sir.

Q. Whose signature is that?

A. Robert L. Knetzer.

Q. Did you see him sign this instrument?

A. I did.

Q. Did you swear him to the truth of the contents at the time that you notarized it?

A. I did.

Q. Can you tell us who all was present at that time?

119 A. There was a fellow who I understand was his attorney and his wife.

Q. Do you know who his attorney was?

A. I don't remember the name now.

Q. Was it signed by him on the date that the instrument bears?

A. That's right, sir. That's the one.

Mr. Bonjean: That's all.

The Court: Any cross examination?

Cross-Examination by Mr. Horsley

Q. Was Mr. Jaffke there present in the outer part of the jail that day?

A. Not to my knowledge, Mr. Horsley.

Q. You don't know the attorney's name?

A. I don't know his name.

Q. Had this affidavit been prepared and brought into the jail?

A. That's right, as far as I know.

Q. You didn't prepare the affidavit?

A. I had nothing to do with that.

Q. Were you the jailer on duty at that time?

A. No, I was a lieutenant in the office of the chief

120 of police. They came and asked me if I would acknowledge the signature. I was a notary public.

Q. And you came back?

Mr. Giffin: These payments were made after bankruptcy.

The Court: He said he thought he had. It may stand.

Q. What did Mr. Knetzer say?

Mr. Horsley: I object to that.

The Court: Objection sustained. I don't think it made any difference if he testified he borrowed some money.

Mr. Bonjean: I think the evidence will show he was in court when Mr. Knetzer testified he borrowed money
145 from Jaffke.

The Court: I don't think it would be material if he did.

Mr. Horsley: I don't think there is any such testimony in this record.

Mr. Giffin: We have a transcript.

Mr. Horsley: Not at any creditors' meeting.

Mr. Giffin: We have a transcript of hearing in the bankruptcy of Judge Briggle March 11, 1953, at which were present Mr. Doyle, Mr. Alexander, the marshal or the acting marshal at that time.

Mr. Knetzer was put under oath, and Mr. Horsley was present as attorney for the trustee, at which time Mr. Knetzer was interrogated under oath regarding his borrowings from different people, and he testified at that time that he borrowed from Jaffke over $40,000.00.

He testified at that time. I think this is admissible as a record of this court with all the parties present, and it is admissible in this proceedings.

146 The Court: It may be true. If it is, I ask him—

Mr. Giffin: May I offer this?

The Court: I am not sure it is permissible, but no use asking him if it was a court proceeding.

Mr. Horsley: It shows on the face he wasn't present at that proceeding.

The Court: Who?

A. Yes.

Mr. Bonjean: Just one more question.

Re-Direct Examination by Mr. Bonjean

Q. Where was Mr. Knetzer at that time?

A. He was in the prison in the federal section. The keeper got him over and brought him over to the table in the lobby of the prison.

Q. What prison is that?

A. The city prison.

Mr. Bonjean: That's all at this time.

(Discussion off the record.)

121 WILLIAM C. DUNHAM, called as an adverse witness on behalf of the petitioner, and having been first duly sworn, testified as follows in answer to Examination by Mr. Bonjean:

Q. State your name.

A. William C. Dunham.

Mr. Bonjean: It's understood, if the court please, he is called under the section providing for the calling of an adverse party.

The Court: That's right.

Q. You are the trustee in bankruptcy of the Robert L. Knetzer estate?

A. I am.

Q. When were you appointed such trustee?

A. Trustee of Knetzer Motor Sales Company on December 3, 1948, and trustee of the Robert L. Knetzer estate on December 10, 1948.

Q. Both those proceedings are now consolidated.

A. They are.

Q. What is the number? The consolidated proceeding?

Mr. Horsley: The trustee.

The Court: Objection sustained as to what that testimony was. Let's get along, gentlemen.

Q. Did you ever meet Mr. Jaffke, Mr. Dunham?

A. I met him. Yes, I met Mr. Jaffke.

Q. When did you meet Mr. Jaffke?

A. I don't remember the first time.

Q. It was subsequent to the period from October of 1950 to October of 1952, was it not? 1951, was is not?

A. Oh, I think so, yes.

Q. Mr. Dunham, just one question: Did Mr. Knetzer ever tell you that he was engaged in business activities in an effort to pay off this turnover order?

147 Mr. Horsley: I object to that as being immaterial to impeach the turnover order. That would be an impeachment.

Mr. Bonjean: It is corroborative of our position.

The Court: It isn't corroborative, what he would say about it, I don't think. Objection sustained.

Q. Did you at any time in your official capacity as trustee and receiver of the payments on the turnover order ever have any moneys turned over to you that he referred — that you referred to the Federal Bureau of Investigation as being concealed assets or being money that had been buried or something?

Mr. Horsley: I object to that. Object to that. It's immaterial as to what he did.

The Court: What would that have to do with it if it was concealed and was buried? I don't see what it would have to do with it. Objection sustained.

148 Q. Did you ever have any evidence come to your attention during this period of payments by the bankrupt that you knew to be money that he had concealed from his trustee?

122 A. 11789.

Q. And you are still acting as such trustee, are you not?

A. I am.

Q. Now, will you tell the court whether or not you received any money from Robert L. Knetzer during the period from December 7, 1950, to November 1, 1951?

A. On the turnover order?

Q. Yes.

A. On December 8, 1950, I was paid—There was paid to Mr. Horsley by Mr. Knetzer $5,000.00, which Mr. Horsley deposited to my account. December 13 Robert L. Knetzer paid to me in currency $3500.00. December 22 Robert L. Knetzer to Horsley $1500.00. I didn't get your date in January.

Q. In January? Did he pay anything in January of 1951?

A. He did not.

Q. Do you know whether he was in jail during the time that he made these payments to you that you have described in December of 1950?

A. He wasn't when he—Are you drawing a distinction between actual and technical confinement?

Q. Yes. I mean where did you receive this money from him?

123 A. The payment made to me was made at my office, so far as I know. That is the December 13 payment.

Q. Was he in anyone's custody at that time?

A. Not as far as I know. That is, actual custody. He came in my office alone.

Q. Do you know when and if during the year of '51 he was confined in jail custody?

A. I do not.

Mr. Giffin: Would it be all right if I took over this examination? Would you have any objection, Bill?

Mr. Horsley: I don't object.

The Court: Go ahead.

Examination continued by Mr. Giffin

Q. Mr. Dunham, to refresh your recollection, do you have any knowledge as to whether or not or did you know at the time whether or not Robert L. Knetzer was confined to jail on or about January 9, 1951?

A. That I don't recall, the date, no. January 9, '51?

Q. Yes.

A. I don't know.

Q. It could very well be he was reconfined to jail 124 at that time?

A. It could very well be.

Q. And directing your attention to the date of April 9, 1951, had you seen Robert L. Knetzer from December 22 to April 9, 1951?

A. I don't recall that I did or didn't.

Q. Did you see him on April 9?

A. No, sir.

Q. Did you receive a payment at that time under the turnover order?

A. Mr. Horsley received a payment on that date of $5,000.00, according to my record.

Q. Do you know who paid Mr. Horsley that money?

A. Not of my own knowledge. My record shows Robert L. Knetzer.

Q. And on April 8, 1951, approximately two weeks later, —

Mr. Bonjean: 18th.

Q. —18th, 1951, did you receive a payment at that time?

A. The next payment I received was April 14.

Q. April 14?

A. April 14 and then April 19.

Q. On April 14 who made that payment?

A. Sol E. Cohn of St. Louis.

125 Q. Who did he make it to?

A. To me, in the form of a cashier's check.

Mr. Horsley: How about the 14th? Is that the 14th or 19th you are talking about?

The Witness: April 9.

Q. April 9 was the payment to you?

A. April 14.

Q. April 14 you received a payment, is that right?

A. Yes.

Mr. Horsley: Was that the Cohn cashier's check? I am confused on it.

A. On April 14 Sol E. Cohn paid me by a cashier's check number 194276. It was paid to one of my secretaries. She doesn't show the bank on which it was drawn, but I am sure it was the Union National Bank for $5,000.00.

Q. What were the circumstances, Mr. Dunham, in regard to Mr. Cohn making that payment?

A. Mr. Cohn came to me and said that he would —

Mr. Horsley: I object to any conversation with Cohn.

The Court: Sustained.

126 Q. Let me ask you this, Mr. Dunham: Was Mr. Cohn authorized to make payments?

Mr. Horsley: Object to that. That calls for a conclusion.

The Court: Objection sustained as to that.

Q. At the time the payment was made, did Mr. Cohn tell you where he got the money?

Mr. Horsley: Object to that.

A. No, sir.

Mr. Horsley: Pure hearsay.

The Court: Objection sustained.

Q. Tell the court how come you accepted money from Mr. Cohn?

Mr. Horsley: Object to that.

The Court: Objection sustained. I can't think it is material. Mr. Cohn paid it to this account, is that right?

The Witness: That's true.

Q. Did he make a representation that he was an attorney?

A. I knew that.

Q. Did he say as to who he was representing?

127 Mr. Horsley: Same objection.

The Court: I think he can say who he was representing in that particular transaction, if he did say so.

A. He did not tell me who he was representing.

Q. Did you have knowledge at that time that he was acting as attorney for Mr. Knetzer?

A. He told me that he would make these payments for Knetzer's account.

Q. On April 19 did you receive another payment from Mr. Cohn?

A. I did, of $5,000.00, Union National Bank draft number 194351.

Q. On April 23—

A. Cashier's check also.

Q. Did you receive a payment on April 23?

A. April 23, payment of $5,000.00.

Q. And who made that payment?

A. Sol E. Cohn.

Q. When was the next payment you received, Mr. Dunham, on the turnover order?

A. I think the payment was actually made on the 30th of April and deposited on May 1. Sol E. Cohn, $5,000.00.

128 Q. When was your next payment?

A. Actually made on May 7, 1951, deposited on May 8, 1951, $5,000.00, paid by Sol E. Cohn.

Q. Then your next payment?

A. May 10, Sol E. Cohn, $5,000.00, deposited on May 11, cashier's check 194700, Union National Bank.

Mr. Horsley: How much?

The Witness: $5,000.00.

Q. And your next payment, Mr. Dunham?

A. May 21, $5,923.72, Sol E. Cohn. I don't show on the receipt, but every payment Mr. Cohn made to me was by cashier's check or draft, no currency, no cash.

Q. When was your next payment from Mr. Cohn?

A. May 24, $5,000.00.

Q. Was it made by the same person?

A. Same way. I don't show on the receipts— Some of these payments were made to the girls in the office, and they gave the receipt and accepted the payment.

Q. Go ahead.

A. May 29, $5,000.00, Sol E. Cohn; June 4, $5,000.00, Sol E. Cohn. October 11, Sol E. Cohn, $5,000.00. October 21, Sol E. Cohn, $5,000.00. Those were all the payments made by Mr. Cohn.

129 Q. When was the next payment received, Mr. Dunham, under the turnover order?

A. November 13, 1951.

Q. And who made that payment? Do you know?

A. A man by the name of Rex Rhoades.

Q. Who was Mr. Rex Rhoades, if you know?

A. He was a man from Lander, Wyoming, he said.

Q. Did you see Mr. Knetzer at that time?

A. I think so. I think Mr. Knetzer brought Mr. Rhoades in.

Q. Did Mr. Knetzer introduce you to Mr. Rhoades?

A. I am not quite positive about that. He and Rhoades were in my office together on one or more — several occasions that Rhoades was there that Knetzer was with him.

Q. Then when was your next payment received?

A. November 14, the next day, $1,000.00. These were all paid by Rex Rhoades. The next November 15, $1,000.00. November 16, $1,000.00. November 19 —

Q. Were these all made by Mr. Rhoades?

A. Yes.

Q. Did Mr. Rhoades come in personally and deliver this money each time?

A. To start, at least, then he made a trip to New
130 York, said he was going there, and he may have wired it or said it.

Q. Each time Mr. Rhoades came there, was Mr. Knetzer in his company?

A. No, I wouldn't say that.

Q. They were together on different occasions?

A. That's true.

Q. At that time did Mr. Knetzer indicate to you any business connected with Mr. Rhoades so far as it pertained to his business activity?

A. He did.

Q. What did he tell you, if anything?

Mr. Horsley: I want to object to any conversation, a stranger to this proceeding.

Mr. Giffin: It involves the business transactions of the bankrupt if he was making these payments on the turnover order.

Mr. Horsley: No showing of any connection with Jaffke.

The Court: You are asking him what? To tell what he said about his connection with him?

131 Mr. Giffin: With the bankrupt. The man was making payments on the turnover order.

The Court: I think he may answer. What did he say? We can strike it. Just as short as you can.

A. Mr. Knetzer was supposed — I think this is the Teapot Dome deal, had some ground by which he could be permitted to drill oil wells in the Teapot Dome, had gotten it through the Navy Department or could get it if he had the time to work on it, and Mr. Rhoades was interested to an extent that he, Rhoades, was going to go to New York and sell out an oil field that he had, a producing field, in western Nebraska. Rhoades did leave. I didn't see him for a few days, then I didn't see him at all.

Q. Mr. Dunham, did Mr. Knetzezr indicate that he was borrowing — why Mr. Rhoades was making these payments for him?

A. Mr. Knetzer at that time —

Mr. Horsley: I want to object.

The Court: Presence of one another or what?

Mr. Giffiin: They were in the presence of one another.

132 The Court: Were they?

A. I don't think anything was said—Knetzer owed this money under this order, and Rhoades said that he was making the payments for him. I don't think we set down and mapped it out. He said he would be responsible for a thousand dollars a day or $5,000.00 a week, it amounted to.

The Court: Let's get along.

Q. Directing your attention to about April 13, 1950, were you present in Springfield at a hearing, a creditors' meeting, in this bankruptcy?

A. I assume I was. I don't remember the date. I was here a good many times.

Q. Does the name Sanderson mean anything to you?

A. Sanderson?

Q. Yes.

A. It does not.

Q. Dr. Sanderson, does that name mean anything to you?

A. From Edwardsville?

Q. Yes.

A. I remember there was a Sanderson.

Q. Do you remember he testified in the creditor's meeting under oath in which you were present here in Springfield?

133 A. I think he did.

Q. And he testified regarding a loan to the bankrupt, Robert L. Knetzer?

Mr. Horsley: I want to object, no materiality in this case whatever.

The Court: I don't see any. Where is it?

Mr. Giffin: If the court please, the issue in this case is title to this money, whether it be in the doctor.

The Court: That might be true, but what has that to do with Dr. Sanderson?

Mr. Giffin: In the creditors' meeting it was—there was testimony of loans to Knetzer that came into the turnover order as far back as 1950, which were—which would put the trustee on notice of the borrowings of these moneys.

The Court: No, objection sustained to that.

Q. Mr. Dunham, at that time did you hear in the court room stories about Knetzer's scheme and efforts to obtain money from different parties in that creditors' meeting?

Mr. Horsley: I object, object to that.

134 The Court: I can't see where that is material at all, whether somebody else may or may not have loaned anything to him. The rumors and stories going around would lead a man to believe anything. Objection sustained. I can't think it is material.

Q. Did you at any time, Mr. Dunham, request of the court by yourself or through your attorney to have Mr. Knetzer released from jail in order that he might obtain money to pay in under this turnover order?

A. I wouldn't say that I requested it. Mr. Knetzer came to me on many occasions when he was out of jail, and when he had promised to make payments on the turnover order at some definite time, and asked—would ask me to call either Mr. Horsley or, in some instances, Judge Briggle direct, to be permitted to have additional time. I did that on several occasions.

Q. During that time would you know whether or not he was in jail or out of jail?

A. On those occasions that he was in my office at East St. Louis.

Q. But you didn't have personal knowledge of when he was confined in jail pursuant to this contempt order
135 or when he was outside jail?

A. I don't remember just now when he was first incarcerated, but I knew from time to time that he had been in and was out and back in again, yes. He came to see me quite often, too often, in fact.

Q. On those occasions would he tell you about those business ventures?

A. He told me on some of those occasions, yes.

Q. Did he mention the Bison Development Company?

A. I never heard of it. He mentioned a name but I didn't know the name until here.

Q. He did mention he was connected with a corporation?

A. Yes, he said a corporation was being formed to deal in timber, oil, Christmas trees, and he showed me, without permitting me to see any signatures, what purported to be a lease or an option or something of that kind.

Q. And that was during the period from October of 1950 through October of 1951, was it not?

A. I cannot answer.

Q. As best you recollect?

A. I wouldn't say it wasn't. I don't remember.

136 Q. If you know, Mr. Dunham, tell the court here how come these extensions on the payment of the turnover order were permitted the bankrupt.

Mr. Horsley: Object to that, not material.

The Court: Objection sustained.

Mr. Giffin: I think it is very material.

The Court: Objection sustained. I don't think it was at all. That was the court's order and he was released from jail. I don't think I am concerned with that.

Mr. Giffin: I am developing there was an order entered to turn over $250,000.00.

The Court: The order is in evidence.

Q. Was any reason given to you during this period from October of 1950 to October of '51 why the bankrupt could not pay up this order in full?

Mr. Horsley: I object to that.

The Court: I think he may answer. You mean by the bankrupt?

Mr. Giffin: Yes.

The Court: Did the bankrupt tell you why he couldn't pay it up?

A. He told me so many different things, Judge, it
137 would be hard to enumerate them.

The Court: I don't think we need to go into that.

Q. What was the total amount you received from December—from October 19, 1950, to October, 1951?

A. October 1, '51?

Q. From December 8, 1950, through October of 1951.

A. What date in October of '51?

Q. October 21.

A. Including that payment?

Q. Let's say until November 1, Mr. Dunham.

A. $75,923.72.

Examination resumed by Mr. Bonjean

Q. And, Mr. Dunham, did you—When these payments were made by Mr. Knetzer did you make any inquiry of him as to where he got that money?

A. No, I did not.

Q. Now, did you at any time learn where he got that money?

A. I did not.

Q. Mr. Dunham, did you testify at a grand jury hearing here in this U. S. Post Office during the year 1952?

138 A. I did on one occasion, if that was in 1952.

Q. Do you remember when that was?

A. I do not.

Q. Do you remember your testimony at that grand jury hearing?

A. Very well.

Q. Did that hearing concern money that Robert L. Knetzer had obtained from Robert Jaffke?

Mr. Horsley: I want to object to that.

The Court: What is the purpose of this? Impeachment or what?

Mr. Bonjean: To show he knew where this money came from that he had received during that period, that the trustee knew where the money came from he received during that period.

The Court: If he testified to that, you can ask about that.

Mr. Bonjean: I am asking about that.

Mr. Horsley: Object unless the question and answer is asked.

The Court: Objection sustained.

Mr. Horsley: No—Unless proper foundation is laid.

139 The Court: I don't want to rehearse right here all the grand jury hearing.

Q. Did you at that grand jury hearing testify this, or this in substance: That—

Mr. Horsley: Object to what he heard.

The Court: Let's hear what he testified.

Q. Did you testify at that grand jury hearing that during the year 1951 you received in excess of $5,000.00 from Robert L. Knetzer which he told you he obtained from Robert Jaffke?

A. I don't remember that.

Q. Well, did you?

A. I say I don't remember testifying that way.

Q. Would you say you did not testify that way?

A. No, sir.

Q. What?

A. No, sir.

Q. You don't remember, is that it?

A. I do not.

Q. Do you know that as a result of that grand jury hearing that an indictment was returned in this court, charging Robert L. Knetzer with obtaining $5,000.00 or more by false pretense from Robert Jaffke?

140 A. I do not recall that, no. I knew he was indicted on a number of counts. Whether that was one of them, I don't know.

Q. He was indicted as a result of your testimony?

Mr. Horsley: Object to that.

Mr. Bonjean: Strike that.

Q. Could you recall whether the—Do you remember the exact date that you testified before the grand jury at the time that you have related?

A. I do not. I think I was here two days.

Q. Do you recall whether that was in June of 1952?

A. I do not.

Q. Do you remember the year? You do remember that?

A. I am not so sure. I assume it was about '52.

Mr. Giffin: If the court please, in this bankruptcy proceeding we also contend that any money acquired by loans by the bankrupt during this period was after-acquired property, and any after-acquired property of the bankrupt, obtained subsequently to this adjudication, borrowed funds or not, this trustee doesn't have title to them,
141 and they should be returned to their rightful owner.

The Court: We are not facing that now, are we?

Mr. Giffin: That is the reason for showing this trustee

was on official notice by official proceedings when these payments were made in the turn over order. There was testimony before the court in creditors' meetings in this bankruptcy dating from April 13, 1950, through March 11, 1952, which are court transcripts in the bankruptcy court, that—where this trustee was present or his attorney where there was testimony regarding the borrowings and the schemes of this bankrupt.

Mr. Horsley: I move to strike that from the record in this case as being an attempt to impeach the order of this court of July, 1949.

Mr. Giffin: I am not attacking the turnover order.

Mr. Horsley: The testimony could only be for that purpose.

142 The Court: What is before us now? We are talking about this indictment, aren't we? What has that to do with what you are talking about?

Mr. Giffin: We are through with the indictment.

The Court: Go ahead with your examination, then. Let's get Mr. Dunham out of here.

Mr. Horsley: Has there been any indictment offered?

The Court: No.

Mr. Bonjean: Not yet.

Mr. Giffin: What I wanted to endeavor to go into was regarding these creditors' meetings at which the trustee or his attorney were present.

The Court: Somebody asked if he had any knowledge of borrowing money.

Mr. Giffin: What was the answer?

The Court: He answered no, he didn't: Let's go ahead.

Q. To refresh your recollection, Mr. Dunham, on April 13, didn't you hear testimony in this court regarding
143 money borrowed by Knetzer from Dr. Sanderson?

A. I probably heard testimony of some borrowing, but I didn't know it of my own knowledge.

Q. You know there was testimony given in this court under oath?

A. Perhaps so, yes.

Q. Do you know of testimony regarding borrowing from Mr. Dinorah?

Mr. Horsley: Object as not material, and move to strike the last two questions and answers.

The Court: If it would be testimony of anything, it would be very immaterial, I would say that. He said that he had heard such testimony, I think, if I am correct. Am I not?

The Witness: That's true.

The Court: And that you didn't know if it was true or not?

The Witness: That's correct.

Q. Did you hear a party named Dinorah testifying regarding a loan?

Mr. Horsley: I want to make the same objection.

144 The Court: I will let him answer.

A. I remember Mr. Dinorah ("Buster," I believe they called him) testified having loaned some sum of money to Mr. Knetzer at some time. The exact date I do not know.

Q. Do you recall it was in a creditors' meeting, the testimony given under oath?

A. I am quite sure it was.

Q. Do you recall the bankrupt himself regarding these borrowings?

A. I think he did.

Mr. Horsley: Object. This is after bankruptcy.

Mr. Horsley: Object to that. The evidence shows that he was indicted, tried and convicted of concealment.

Mr. Giffin: The evidence here doesn't show it.

The Court: He is asking of his own personal knowledge. I think he may answer.

A. May I hear the question, please? (Question read by reporter.)

A. No, no absolute knowledge.

Mr. Giffin: I think that's all.

Mr. Bonjean: I think that's all.

The Court: Do you care to cross examine?

Mr. Bonjean: That's all.

149 EDWARD B. DIERKES, called as a witness on behalf of the petitioner, and having been first duly sworn, testified as follows, in answer to direct Examination by Mr. Bonjean:

Q. State your name.

A. Edward B. Dierkes.

Q. Where do you live?

A. 3648 Meramec Street, St. Louis.

Q. What is your business, Mr. Dierkes?

A. I am retired.

Q. Retired. How old are you, sir?

A. Seventy-eight.

Q. I will ask you whether or not on or about December 13, 1950, you had any business dealings with Robert Jaffke.

A. Yes, sir.

Q. What was that business dealing that you had with him at that time?

Mr. Horsley: Object as being ex parte, pure hearsay.

The Court: Are you asking whether he made a loan?

150 Mr. Bonjean: I am getting to that. I didn't want to lead him.

Q. Did you make a loan at that time?

A. Yes.

Q. What was the amount of that loan?

A. Twelve thousand five hundred.

Q. On what date? Have you got a record of the date of that loan?

A. Yes, I have.

Mr. Horsley: May I have a running objection to this to save time?

A. December 13, '50.

Q. Did you receive any collateral for that loan?

A. Yes, sir.

Q. Has that loan been repaid to you?

A. Yes, sir.

Mr. Horsley: I object to that.

You say the loan has been repaid?

Mr. Bonjean: Yes.

Q. Did he do that over a period of time?

A. Yes, three years, about three years.

The Court: Any cross examination?

Mr. Horsley: No cross examination.

151 WILLIAM H. JAFFKE, called as a witness on behalf of the petitioner, and having been first duly sworn, testified as follows, in answer to Direct Examination by Mr. Bonjean:

Q. State your name.

A. William H. Jaffke.

Q. Where do you live, Mr. Jaffke?

A. 3931 Hollyhill Boulevard, St. Louis.

Q. What is your business or occupation?

A. I am in the banking business.

Q. What connection do you have at the present time?

A. I am a vice president of the Mercantile Trust Company, St. Louis.

Q. How long have you occupied that official position?

A. Nine years.

Q. Calling your attention to on or about the year 1950, the latter part of the year, did you have any business transaction with your brother, Robert Jaffke?

A. About that time he asked me to loan him some money, twenty-five hundred, which I did.

Q. Do you remember the date of that?

152 A. I am not sure of the date, but I know it was about that time.

Q. What do you mean when you say, "It was about that time"?

A. It might have been the 15th or 20th.

Mr. Horsley: Of what?

A. But I knew it was December, '50.

Mr. Horsley: May I have the same objection to all this testimony running?

Q. Has that loan been repaid to you?

A. Yes.

Q. Who repaid it to you?

A. My brother, Robert Jaffke.

Q. And did you have an other business dealing with him shortly after that loan was made to him by you?

A. About in October of '51, I loaned him $2800.00.

Q. That was in October of '51?

A. I believe that's right.

Q. Prior to that loan that you made to him on October 28 of 1951, did he consult you about any investment he was about to enter into?

A. He didn't consult me about an investment. He asked me if it was possible to obtain loans through—

153 Mr. Horsley: Object.

The Court: Objection sustained. He made the loan, no doubt about that. Objection sustained.

Q. You say he obtained $2800.00 from you when? October?

A. October of 1951.

Q. Of 1951?

A. That's right.

Q. Has that been repaid to you?

A. Yes.

Q. By whom?

A. Robert W. Jaffke.

Q. Do you know of your own knowledge what he did with that money?

A. No, I don't.

Q. Did you have any dealings with your brother, Robert Jaffke, that involved Robert L. Knetzer?

A. None that I knew of.

Q. Did you ever know Robert L. Knetzer?

A. Never met him.

Mr. Bonjean: I believe that's all

The Court. Cross examine.

154 *Cross-Examination by Mr. Horsley*

Q. You had no knowledge, then, of any Bison Development Company?

A. My brother never disclosed to me what he did with the money or what he wanted it for.

Mr. Horsley: That's all.

Q. (By Mr. Horsley.) You had loaned your brother many times, hadn't you?

A. Yes, we loaned each other money once in a while.

Q. And financed a lot of business deals for him?

A. I never financed any business deals for him. The money, if that is what you are referring to, was borrowed through another division of the bank. An officer of the bank doesn't pass on a loan made to his relatives, as you well know.

Q. That was a bank loan or personal loan?

A. Personal loan. Nothing to do with the bank.

Q. You didn't know what he was going to do?

A. I never asked and he never told me.

Mr. Horsley: That's all.

Mr. Bonjean: That's all.

155 HARVEY DAEUMER, called as a witness on behalf of the petitioner, and having been first duly sworn, testified as follows in answer to Direct Examination by Mr. Bonjean:

Q. State your name.

A. Harvey Daeumer.

Q. Where do you live?

A. 4016 Parker, St. Louis 16, Missouri.

Q. What is your business or occupation?

A. Buyer for Leacock Sporting Goods Company, 1011 Locust Street, St. Louis.

Q. Did you during the year 1950 have any business dealings with Robert Jaffke, the petitioner here?

A. No, sir, I did not.

Q. Did you ever loan Mr. Jaffke any money?

A. Yes, sir, I did.

Q. When was that?

Mr. Horsley: May I have the same objection?

The Court: Yes. Objection overruled.

Q. When was that?

A. September 17, 1951.

156 Q. 1951?

A. Yes, sir.

Q. How much did you loan him at that time?

A. $2300.00.

Q. Has that sum of money been repaid to you?

A. Yes, sir, it has.

Q. By whom?

A. Mr. Robert W. Jaffke.

Q. Over how long a period of time was that repaid?

A. Mr. Jaffke paid that back to me within four months. I received that payment December 31, 1951.

Q. Do you know of your own knowledge what that money was used for?

A. No, sir, I did not.

Q. Did you have any other business dealings with Mr. Jaffke?

A. Mr. Jaffke handles loans for my mother and my dad. Handled real estate transactions, I will say that.

Mr. Bonjean: That's all.

Mr. Horsley: No cross.

The Court: Have you any other short ones?

Mr. Bonjean: I think that's all.

The Court: I think we will recess until tomorrow
157 morning.

Mr. Bonjean: That's all.

(WHEREUPON the trial of the above entitled cause was adjourned at 4:30 o'clock p.m. on Thursday, October 14, 1954, to Friday, October 15, 1954, at 10 o'clock a.m.)

158 IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS, SOUTHERN DIVISION

ROBERT W. JAFFKE,
Petitioner
-vs-
WILLIAM C. DUNHAM, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, bankrupt,
Respondent
} 11789

TRIAL RESUMED at 10 o'clock a.m., pursuant to adjournment

Springfield, Illinois, October 15, 1954

PRESENT: Same as before

Before the Honorable J. Leroy Adair, Judge presiding

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159 The Court: You may proceed with the case.

Mr. Bonjean: May we continue with this man from Chicago?

Mr. Horsley: One request. I have one witness from Cleveland, Ohio. Gerald Sammons. To testify that between October 1st and February, he paid to Knetzer the sum of $101,550. That was between October 1951 and February 1952. The only purpose of his testimony—I wonder if Counsel would stipulate. He has already testified under oath.

Mr. Giffin: That is testified to in this proceeding. I have the original and a certified copy filed in the bankruptcy file and a statement here that Knetzer states that he borrowed from Gerald Sammons $120,000.

Mr. Horsley: Maybe my figure was wrong.

Mr. Giffin: $103,550. That is right. Would you stipulate to what is said in this transcript?

Mr. Horsley: No, because I cannot put it in as an admission of the bankrupt. That is why I want to put it in as direct testimony.

The Court: He has testified to such?

Mr. Horsley: Yes, under oath. Sammons testified
160 in the criminal case. I have a transcript of that testimony. He was used for the Government and for the Defense. I think he testified three times.

Mr. Bonjean: Give us the benefit of examining the transcript and we can enter into a stipulation.

The Court: I think we may. Let's go ahead.

Mr. Bonjean: Mr. Robert W. Heinze.

ROBERT W. HEINZE, called as a witness, having been first duly sworn on oath, was examined and testified as follows:

Mr. Bonjean: State your name.

A. Robert W. Heinze.

Q. What is your address?

A. 134 N. LaSalle Street, Chicago.

Q. What is your business or occupation?

A. Attorney.

Q. How long have you been an attorney?

A. Approximately five years.

Q. Are you duly licensed to practice law in the State of Illinois?

A. Yes, sir.

Q. With whom are you associated?

161 A. Meyer H. Gladstone—H. J. Bush—

Q. Were you so associated on or about August 1, 1952?

A. Yes, sir.

Q. I will ask you whether or not, about August 1, 1952, or maybe shortly prior thereto, you had any professional dealings with Robert L. Knetzer?

A. Yes, sir.

Q. Did you meet Knetzer about that time?

A. Yes, sir.

Q. Tell the Court the circumstances of your meeting him.

A. In the Fall of—during the latter part of the summer of 1952, Mr. Bush, who was a senior office associate in the office, assigned me to a matter known in our office file as Robert L. Knetzer. I was sent to Milwaukee, Wisconsin, to interview Mr. Knetzer, for the purpose of investigating whether or not we would (our office) represent Mr. Knetzer. I spoke to Mr. Knetzer at the Marshal's office in Milwaukee and made arrangements to have him removed to Springfield, Illinois. Mr. Knetzer was given my office telephone number and my home telephone number. Shortly thereafter I received a number of telephone calls from Mr. Knetzer and some telephone calls from a Mrs. Knetzer, who asked me to come to Springfield.

Mr. Horsley: Object to any conversation.

The Court: Yes.

Mr. Bonjean: What did you do?

A. As a result of those conversations, I came to Springfield to meet Mrs. Knetzer and to interview Mr. Knetzer. Still to try to determine whether our office would represent Mr. Knetzer.

Q. Did you go to the Springfield City jail?

A. No, not at that particular time. I understood that a Mr. William Giffin had represented Mr. Knetzer, and as a matter of courtesy to him I went to his office to explain. I also met Mrs. Knetzer at that office. I was informed I would not be allowed to see Mr. Knetzer without the permission of the U.S. Marshal's office, and he informed me I would have to have an Order of Court. Those arrangements were made and I went over to the City jail and interviewed Mr. Knetzer. Just prior to entering the jail I met Mr. Robert Jaffke —

Q. Is he the gentleman sitting in the Court today?

162 Yes, sir. I met him in the first room as you enter the jail building, and Mr. Jaffke gave me a form of affidavit—

Q. I will ask you to examine Petitioner's Exhibit No. 24, is that the instrument he gave you?

A. Yes, sir. He handed me that unsigned form and told me—

Mr. Horsley: Object.

The Court: Yes, I cannot see where that would be—what did you do with the statement?

A. I took that statement to the cell part of the jail where I was going to interview Mr. Knetzer.

Q. Did you present this instrument to him?

A. Yes, sir.

Q. Did he say anything to you?

Mr. Horsley: Object.

Mr. Bonjean: It is very material if the Court please. In a proceeding of this nature I think it should be received subject to objection. Otherwise I would be forced to make an offer of proof.

The Court: What I am trying to do is to confine
163 this to a regular law suit and not strike out a lot of things. What was this question?

Mr. Horsley: It gets to the gist of the instrument.

The Court: What did he say to you?

Witness: I showed him the instrument and told him about a man who wanted him to sign it.

Q. Did he sign it?

A. Yes. First he asked me if he should sign it and I said "You cannot sign anything unless it is true."

The Court: So he signed it?

A. Yes, after I had—

Mr. Horsley: Object to the statement of counsel.

The Court: Yes, that is generally understood.

Mr. Horsley: Move to strike.

The Court: It may be stricken.

Witness: I had to go to the front of the jail and locate a Notary Public, and finally an officer of the Police Force notarized the statement for Mr. Knetzer.

Mr. Bonjean: Before Mr. Knetzer signed this in-
164 strument, did you obtain permission from officials of the Government regarding presenting this instrument to him?

A. Yes, I did.

Mr. Horsley: That would be pure hearsay.

The Court: I don't it could be important. He says it was signed.

Mr. Bonjean: Signed in your presence?

A. Yes, sir.

Q. Did he make any statement?

Mr. Horsley: Object.

The Court: Objection sustained.

Mr. Bonjean: Were you present when he was sworn to the truth of it by a Notary Public?

A. Yes, sir.

Q. Was Mr. Jaffke present at the place where he signed it?

A. No, sir.

Q. What did you do with the instrument after Mr. Knetzer signed it?

A. When I left the cell part and went to the front of the jail I returned the affidavit to Mr. Jaffke.

Q. Signed and notarized on the date that it bears?

165 A. Yes, sir.

Mr. Bonjean: That is all.

Cross Examination by Mr. Horsley

Q. Do you know who prepared this instrument?

A. No, I do not.

Mr. Horsley: That is all.

(Witness excused.)

Mr. Bonjean: Mr. Robert W. Jaffke may resume the stand.

ROBERT W. JAFFKE, a witness previously sworn, was recalled, and testified as follows:

Mr. Bonjean: You are the same Mr. Jaffke who testified, the petitioner who testified yesterday?

A. Yes, sir.

Q. I believe the last loan that you said you obtained in order to pay money to Mr. Knetzer was on January 8, 1951?

A. I believe that is correct.

Q. On that date—I believe you testified you gave him $1,000 that you obtained from Adolph Bohn?

166 Q. Did you repay that money to Mr. Bohn?

A. Yes, sir.

Q. Subsequent to that date?

A. Yes, sir.

Q. I hand you Petitioner's Exhibit No. 25. Tell the Court what that is.

A. A check dated April 1st, payable to myself for $1,000 showing for Adolph Bohn, of which I cashed and returned the money to the law firm of Tralles Hoffmeister and Gilpin to be returned to Mr. Bohn. He had me get the money in cash and asked that it be returned the same way.

Mr. Bonjean: I will ask that this be marked as Petitioner's Exhibit No. 26. (Exhibit marked.)

Q. I hand you Petitioner's Exhibit No. 26 and ask you to state what that is.

A. This is a receipt dated April 1, 1953, by the firm of Tralles Hoffmeister & Gilpin for $1,000 to be paid to Adolph H. Bohn. Receipt made to myself for $1,000. Dated April 1, 1953.

Q. After this loan that you obtained from Mr. Bohn on January 8th, you paid that money also to Mr. Knetzer?

A. Yes, sir.

Q. Did he give you a receipt for it?

167 A. No, sir. I didn't get a receipt until a later date.

Q. Is that amount reflected in receipts that you have?

A. Yes, sir.

Q. After January 8, 1951, did you have any further business dealings with Mr. Knetzer?

A. I gave Mr. Knetzer $520 on or about March 14, 1951. This money was to be used on the transaction previously discussed.

Q. What transaction?

A. On the development company. Housing project as an investment.

Q. Did he give you a receipt?

A. No, but he had promised me security of an automobile from a man he was clearing title on.

Mr. Horsley: Same objection.

The Court: Sustained.

Mr. Bonjean: Did you give him any more money?

A. $260 on May 21, 1951.

Q. Did he approach you for that or did you voluntarily give it to him?

A. He approached me.

168 Q. Where did you give that money to him?

Mr. Horsley: That is a conclusion, unless he is more specific.

Mr. Bonjean: Can you be more specific?

The Court: He has answered that.

Witness: Given to him downtown St. Louis, downstairs from John Schneider's office, 8th and Locust.

Mr. Bonjean: Was all of this money given to him in cash?

A. Yes, sir.

Q. At whose suggestion?

A. His.

Q. During the summer of 1951, did you give him any more money?

A. I did not see Mr. Knetzer until August, 1951; from May until August I was in Minnesota, and on my return I read of an accident in which he had been injured and was in the hospital. That is the only reason I knew where he was.

Q. During the times you have described, was he ever accompained by anyone?

A. No, sir.

169 Q. Was he ever accompanied by anyone when he approached you for the money on any occasion?

A. No, sir.

Q. Did each of the occasions when he approached you for money and you gave him money, occur in public places?

A. Yes, sir.

Q. When, after August 1951, if you did, did you give him any money?

A. During his confinement in the hospital, with broken leg, I advanced $300 to Mr. Knetzer for phone calls and such, as he put it to me.

Q. Where did you get that money?

A. My own money.

Mr. Bonjean: I am trying to show the Court, to verify to the Court.

The Court: He says it was his own money. Go ahead, if you want to.

Witness: That was in March from my own account.

Mr. Bonjean: For what purpose was that money delivered to him. The August and March money?

A. For the mining and development company.

Q. Did you give him any more money after that?

170 A. Yes, Mr. Knetzer received $2,000 from me in October 1951, and a few days later, in October, on the 22nd or so, he received $2800 from me.

Q. Making a total of how much at that time?

A. A grand total of $47,980.

Q. Where did you obtain that money?

A. $2,000 of that was obtained from Harvey Daeumer, 4016 Parker.

Q. Is he the man who testified yesterday?

A. Yes, sir. I borrowed $2300 from Mr. Daeumer, $2,000 I gave to Mr. Knetzer, the other $2800 was from my brother, Wm. H. Jaffke.

Q. The same Mr. Jaffke who testified?

A. Yes, sir.

Q. Did you give Mr. Knetzer any more money?

A. No, sir.

Q. What was the total amount of money you gave him?

A. $47,980.

Mr. Horsley: Further objection. Move to strike, as not the best evidence of any money paid to Mr. Knetzer.

The Court: You mean the testimony that he gave it in cash is not good evidence?

Mr. Horsley: If he has a receipt.

171 The Court: Go ahead.

Mr. Bonjean: Can you tell the Court whether or not you ever learned that this money that you paid to Mr. Knetzer, whether it was used for the development of the Bison corporation?

Mr. Horsley: Same objection.

The Court: Ask him whether he learned—whether or not.

Mr. Bonjean: Did you learn whether or not it was used or not used?

A. I learned that it was used.

Mr. Horsley: Object and move to strike.

The Court: It may stand.

Mr. Bonjean: When did you learn that?

A. Spring 1952.

Q. From whom?

A. Robert L. Knetzer.

Q. Shortly thereafter did you appear as a witness before a Grand Jury called in this U. S. Court House?

A. Yes, sir.

Q. Did you testify before that Grand Jury?

A. Yes, sir.

Q. Was an indictment returned against Robert L. Knetzer?

172 Mr. Horsley: Object.

The Court: He testified to all of this yesterday.

Mr. Bonjean: No, I think—

The Court: Ask him if he knows.

Mr. Bonjean: Was there an indictment returned?

A. Yes, sir.

Q. Of obtaining money from you by false pretense?

A. Yes, sir.

Mr. Horsley: Object and move to strike.

The Court: Yes. The fact that an indictment was returned. That is proper. Not to ask him what was in it.

Mr. Bonjean: Did any man, in the year 1951 or the year 1952, from the Federal Government contact you in the office in St. Louis?

Mr. Horsley: Object.

The Court: What is the importance of it?

Mr. Bonjean: We want to show where the Federal Government investigated where he obtained this money and to verify Mr. Jaffke's—

The Court: That would not help that I can see. Objection sustained.

Mr. Bonjean: Did Mr. Knetzer ever tell you how
173 much of this money you gave him was paid by him to the Trustee in Bankruptcy?

Mr. Horsley: Further objection for the reasons heretofore given.

The Court: I think I will let him answer. What is your objection?

Mr. Horsley: An admission by a bankqrupt against the title of the Trustee, the admission being made after title was passed. Cannot make admissions which are binding on the Trustee.

The Court: The question here is a question of whether money that was not the property of the bankrupt at the time of the bankruptcy passed to the Trustee. The question now is what?

Mr. Bonjean: If Mr. Knetzer told him how much of this money he had received from him was paid over to the Trustee in Bankruptcy.

The Court: No, that is not proper. Sustained.

Mr. Giffin: If the Court please, if that should be a declaration against interest by the bankrupt and admissible, we have case law to sustain that.

The Court: I don't think you have case law—I do not think it is proper. Objection sustained. Go ahead.

174 Mr. Bonjean: I hand you Petitioner's Exhibit No. 24, and ask you to state what that is.

A. Affidavit signed—dated August 1, 1952.

Q. Who prepared that affidavit?

A. I prepared it myself.

Q. Where did you get the information that you have in that affidavit?

Mr. Horsley: Object.

The Court: I think he may answer.

A. Secured from Robert L. Knetzer.

Mr. Horsley: Move to strike.

The Court: It may be stricken.

Mr. Bonjean: Where did you receive that affidavit?

A. In the outer lobby of the Springfield City jail on August 1, 1952.

Q. Who handed it to you?

A. An attorney named Robert Heinze.

Q. Is he the attorney who just preceded you in this case today?

A. Yes, sir.

Q. Do you have receipts for the money you gave to Mr. Knetzer?

A. Yes, sir.

175 Mr. Bonjean: I will ask that this be marked as Petitioner's Exhibit No. 27. (Exhibit marked.)

Q. I hand you herewith Petitioner's Exhibit No. 27, and state what that is.

A. Promissory note for $7,000 dated—

Mr. Horsley: I want to object to the testimony here.

The Court: Who is it signed by and what is it?

A. Promissory note signed by Robert L. Knetzer to Robert W. Jaffke.

Mr. Bonjean: When did you receive that?

A. March 1951.

Q. I hand you Exhibit No. 28 and state what that is?

A. Receipt dated December 22, 1950, signed by Robert L. Knetzer for $35,100.

Q. Did these receipts represent all the money you paid to Mr. Knetzer?

A. They do not.

Q. Do you have a receipt for any difference between that amount and the amount represented by these receipts?

A. No, I had title to his 1951 Cadillac.

Q. When did you obtain that?

176 A. October 1951 and a mortgage secured by the same car.

Mr. Horsley: Move to strike.

The Court: I think the testimony that he had a car from his proper.

Mr. Bonjean: Is that what you had security for $2800?

A. Yes, sir.

Mr. Horsley: Object.

The Court: It may stand.

Witness: $2800 was paid by a relative of Mrs. Knetzer.

Q. Did you surrender the mortgage upon payment of the $2800?

A. Yes, sir.

Q. Can you explain to the Court the dates that appear on these receipts?

Mr. Horsley: I think the receipts will show for themselves.

The Court: It is the date they were given to you?

A. The date on the note is not the date it was given. Mr. Knetzer was confined to jail a few days after he secured $7,000 from me; in January before he could give me a receipt—in 1951—and upon his release in March 1951 he said "I never did give you a receipt" and all I
177 had in my bag was a note and I drew it up and he signed it. The receipt and the note, together, combined all the money he owed me up to that time.

Q. What about the date on this instrument?

A. Dated December 22, 1950, is the combined money from December 7 through December 22, that he received from me.

Q. Did you ever receive back from Mr. Knetzer, or from anyone in his behalf, any part of this $47,000?

A. The $2800 was paid to my brother.

Q. Any other money?

A. No, sir.

Q. Where did he obtain the money to pay these loans that you explained to the Court—

Mr. Horsley: Object.

The Court: I do not know where he got it—I don't care.

Mr. Bonjean: That is all.

Cross-Examination by Mr. Horsley

Q. Mr. Jaffke, how old are you?

A. Forty-one.

178 Q. You have been in the real estate and investment business for how long?

A. For myself, since 1939.

Q. Daily and weekly you handled loans?

A. Yes, sir.

Q. Loans with corporations and other institutions?

A. My business is strictly with private individuals.

Q. You obtain loans from corporations?

A. I borrow at Mercantile Bank.

Q. You build houses?

A. Yes, sir.

Q. Financed through R.F.C. or F.H.A.?

A. No, sir.

Q. Through the bank?

A. Through private money.

Q. Did the firms mentioned ever handle these transactions?

A. I have not had occasion for law work other than wills.

Q. On the title work and other investment work this law firm handled it?

A. Yes, in the last six or seven years.

Q. During the time you say you were giving this
179 money to Knetzer, did you see the charter of this corporation?

A. He showed me an impressive looking document, which I presumed was the charter.

Q. Did you ever see the books and records of the corporation?

A. No, sir.

Q. You knew who the incorporators were?

A. No, sir.

Q. You knew one was Ed Kane from Edwardsville?

A. Yes, sir.

Q. The architect?

A. Yes, sir.

Q. Did you ever talk to Ed Kane before you invested?

A. No, sir.

Q. You knew he was an officer of the corporation?

A. He was supposed to be a member.

Q. You knew Knetzer was not a member?

A. Yes, sir.

Q. Tell you why?

A. He told me he was not a member because of his bankrupt condition.

180 Q. You mean he did not want anyone to know he was connected?

A. No, he did not explain. Other than that anything his name was connected, that would stand too much investigation about concealing assets, said he had known—

Mr. Horsley: I disclaim the statement "he had known."

The Court: I think that part may be stricken. Self-serving statement.

Mr. Horsley: When was this conversation?

A. On the evening of December 6, 1950.

Q. That was before you had given him any money?

A. Yes, sir.

Q. Did you intend to purchase any stock in the corporation?

A. No, sir.

Q. Will you explain how you were dealing with a corporation when you were not buying stock in the corporation?

A. I was not familiar with the corporation work. He gave me a glowing picture of a good project and I was just finishing one that paid 50 per cent profit.

181 Q. You mean in the same manner, it paid you fifty per cent profit.

A. I advanced money in a similar way—he was building—

Q. Is that one of these F.H.A. deals?

A. That was F.H.A.

Q. And you made a fifty per cent profit on your investment on that deal?

A. Yes, sir.

Q. When was that?

A. March 1, 1950.

Q. What project was that?

A. A personal project with another builder named Chapman and myself.

Q. What was the name of the project?

A. 4617 through 31. Santa Monica, California.

Q. Was there a title, a name on the project?

A. No, sir. This man wrote me a letter.

Q. What was the name of the man?

A. A. F. Chapman.

Q. You knew several months before you saw Knetzer, that he was under an Order to turn over to the Court $250,000?

182 A. Only knew the information I received from you.

Q. We told you he was under order to turn over to the Court $250,000?

A. That had been some time previous.

Q. That was in January 1950?

A. Yes, that would have been the date.

Q. I hand you Defendant's Exhibit No. 1, and ask you if that is a true and correct copy of the information mailed to you as the progress made in this bankruptcy?

A. That is the one.

Mr. Horsley: We offer Defendant's Exhibit No. 1.

The Court: Any objection? (No objection.)

The Court: It may be received.

(Defendant's Exhibit No. 1 received in evidence.)

Mr. Horsley: This money that you say you gave Mr. Knetzer, was a personal loan to him?

A. No, this was money for this building project.

Q. You did not loan it to the corporation?

A. No, but there was chattel mortgage.

Q. You were not to get any stock?

A. No, sir.

183 Q. You entered into this so as to get interest on your money, or profit?

A. Profit.

Q. You did not know how much profit you would make?

A. No, because it was not determined and my profit was a percentage, in accordance with what the other individuals had put up.

Q. What had they put up?

A. I don't know.

Q. You knew Ralph Riley had put up money?

A. At that time he said Mr. Riley had invested.

Q. You discussed with Mr. Riley in March 1951 the difficulty he had with Mr. Knetzer?

A. I believe I met Mr. Riley in March.

Q. And he told you he was having trouble getting his money from Knetzer?

A. I don't remember the substance of the talk but Mr. Riley was very much disgusted.

Q. And he had given up on the whole deal and was having trouble getting title for the Cadillac, and he could not get the money?

184 A. He got the money.

Q. You loaned it?

A. No, sir.

Q. So you knew the trouble Mr. Riley was having in March 1951?

A. Yes, sir.

Q. And notwithstanding, you say after that date you gave Mr. Knetzer some $5500?

A. Yes, sir.

Q. Now the first $6100 you gave Mr. Knetzer on the 7th or 8th of December 1950 was given to him for the specific purpose of paying it to Mr. Dunham on the turn over order so he could stay out of jail?

A. Yes, $3800 was.

Q. I took your deposition, Mr. Jaffke, on March 26, 1953, in my office, didn't I?

A. Yes, sir. You took my deposition.

Q. You say part of that $6100 was to be used on the deal?

A. That is correct.

Q. And part of it for the turn over order?

A. $3800 for the turn over order.

Q. Did I ask you this question: "In other words,
185 you just gave him the money to use as he saw fit?" And you answered: "On this particular $6100; everything he got from me was entirely for the deal except on this initial $6100. He said he was being pressed by the Court and had to make payment in order to remain out or he would be back in jail pending payment and he took the original $6100, part of it he could get by with and was supposed to have paid it to the Court."

Mr. Bonjean: If the Court please, that is not impeachment.

Mr. Horsley: The other money was to be used as he saw fit?

A. Legal expenses.

Q. Will you tell me, Mr. Jaffke, if you say part of that was for the deal, why was that $6100 to be paid to you by another individual?

A. It was not—

Q. I will ask you if I did not ask you: "How was that $6100 to be repaid to you" and you answered: "He was to get it back to me when he got it from another individual later."

My question is, did you make that answer on that date?

186 A. Yes, sir.

Q. Then I asked you "Who was the other individual" and you answered "I don't know?"

A. Yes, sir.

Q. Any office dealings that you had had in 1947 and 1948, you dont mean to give the Court the impression that all of these tractors you bought, you have a farm you have an interest in?

A. I do not.

Q. You expected to make a profit?

A. Yes, sir.

Q. So you were in on the tractor deal with several other investors who had put money in?

A. It was a deal that I, myself, got into.

Q. You knew what those tractors were selling for on the open market?

A. No. I owned this farm in S. Dakota, I spent months there each year. Paying huge prices for used equipment, so I saw the tractors and I put a deposit on three, one for myself and two for neighbors.

Q. And you went back later and put up $7,000—

A. No, that is not correct.

187 Q. What is correct?

A. Mr. Knetzer approached me in St. Louis and sold me on the idea of depositing $7,000 on seven more.

Q. Your purpose was for profit on the seven tractors —they would sell for more than list price, and he was agreeing to sell them to you for list price?

A. Yes, sir.

Q. So you had knowledge when he went bankrupt, that he had been engaged in fraud schemes.

A. I knew the man was bankrupt. I did not have any knowledge of fraud except what was in the papers.

Q. You knew the paper reported that he was buying the cars from Wolfe and paying $1,000 more for each car—

A. I read what everybody else did. Each report was different.

Q. That was in 1948?

A. Yes, sir.

Q. After that time did you know how much money he had paid on the turn over order, when you talked
188 to him in October 1950?

A. No, sir.

Q. Did you ask him?

A. No, sir.

Q. But the first $6100 was for the turn over order?

A. $3800—

The Court: Here is a transcript in which he says he had borrowed some $40,000 during that period. The Trustee has no opportunity to cross-examine him. I seriously question that it is good, but I will admit it and I will strike whatever you think we ought to after the briefs are in. Is there any objection to Defendant's Exhibit No. 1?

Mr. Horsley: I have not finished. Objection to 29, pure hearsay and the declarations of the bankrupt are not admissible after title has passed to the Trustee and otherwise incompetent, irrelevant and immaterial.

The Court: Over-ruled.

212 Mr. Horsley: Same to 24 and 29.

The Court: Exhibit No. 1 of the defendant is admitted.

Mr. Horsley: I want to stipulate that a man by the name of Gerald Sammons paid to Robert L. Knetzer the sum of $101,550 between October 1, 1951 and some time during the month of February, 1952.

Mr. Giffin: We will not stipulate.

Mr. Horsley: Make it November 1st.

Mr. Bonjean: We will so stipulate.

The Court: I am going to admit it.

Mr. Horsley: If he were present he would testify under oath.

The Court: How do you gentlemen want to handle this?

Mr. Horsley: I have a couple of witnesses.

The Court: Proceed.

Mr. Horsley: Mr. Clinton Petty.

CLINTON PETTY, called as a witness, having been first duly sworn on oath, was examined, and testified as follows:

Mr. Horsley: Your name is Clinton Petty?

A. Yes, sir.

Q. After that date you gave him another sum of money in December. Tell me exactly, if you know, who was to repay you that money?

A. That was not to be repaid at all unless I requested it. That is why he drew the receipts up. I said "I am drawing up the receipts" and he said he would get the money from another individual.

Q. You testified in the trial in which Mr. Knetzer was convicted for concealing assets?

A. Yes, sir.

Q. You testified as a witness?

A. Yes, sir.

Q. And you were subpoenaed?

A. Yes, sir.

Q. You did not file any subpoena with the court or claim a witness fee?

A. No, not from the court; I claimed it from
189 Knetzer.

Q. Did he pay you?

A. No, sir.

Q. You had no witness fee or mileage advancement?

A. No, sir.

Q. At the time Knetzer went bankrupt he owed you $11,300?

A. Yes, sir.

Q. You hired attorneys and tried to collect?

A. I hired an attorney to file a claim.

Q. You also went over to see Knetzer?

A. I went through Edwardsville to Virden to relatives, and I saw Knetzer, a chance meeting.

Q. Did you on or about April 1, 1951, either loan
213 or deposit or by some method give to Robert L. Knetzer, $5,000?

Mr. Bonjean: Objected to as leading.

Mr. Horsley: I am sorry. Did you during the months of April and May 1951 give certain sums of money to Robert L. Knetzer?

A. Yes, sir.

Q. Give the date and amount?

A. I can come pretty close to it. I was confused as to the exact date. My memory, April 1st, the bank records show April 15, 1951, $5,000. Next date, April 29, $7500, May 4, $8500, May 10, $8000, May 28, $14,500.

Q. Any money after that?

A. I believe $500. I cannot give the date.

Q. Approximately?

A. I would say the latter part of July or the first part of August.

Q. You don't know what happened to that money of your own knowledge?

A. No, sir.

Q. On the 28th of May 1951 when you gave $14,500
214 to Knetzer, was anyone present?

A. Yes, sir.

Q. Who?

A. Robert Jaffke.

Q. Where?

A. Statler Hotel, St. Louis, Mo.

Mr. Horsley: That is all.

Mr. Bonjean: No cross-examination.

Q. Up to the time you gave him this additional money in December 1950, none of that $11,000 had been repaid to you?

A. No, sir.

Q. I will ask you if when you testified on that trial on the 12th of February 1953, the attorney, Manuel Wiseman, attorney for Robert Knetzer, didn't ask you: "Since October 5, 1948, have you loaned any money to Robert Knetzer?" and you answered: "Yes, Mr. Knetzer received the sum of $47,980 from me."

190 A. Yes, sir.

Q. You did make that answer?

A. Yes, sir.

Q. When you were dealing with him along in December you took it for granted that he was not a member of this corporation or had any stock in it because of his trouble with the Court?

A. He said he was General Manager and named the other members of the corporation.

Q. But he did not have his name in the records because of his trouble with the Court?

A. That is right.

Q. You did not give him any money after—so we can summarize this for the Court, you claim that on December 7, 1950 you gave him $6100?

A. Yes, sir.

Q. On December 13, 1950, $12,500?

A. Yes, sir.

Q. December 18, 1950, $7500?

A. Yes, sir.

Q. December 21, 1950, $9,000?

A. Yes, sir.

Q. On January 3, 1951, $6,000?

A. Yes, sir.

Q. On January 8, 1951, $1,000?

191 A. Yes, sir.

Q. And you gave him no money between January 8 and April when you gave him $540?

A. March, I believe.

Q. Was that when he had just got out of jail?

A. A day or two after that.

Q. And he needed some money to get around on?

A. To get the corporation working.

Q. I believe you said it was for phone calls?

A. No, that was while he was in the hospital.

Q. You heard him make those phone calls?

A. I heard him make calls.

Q. Was he traveling around?

A. I don't know. I did not go with him.

Q. You don't know what he did?

A. No, sir.

Q. Do you know Clint Petty?

A. I met him.

Q. You met him in April or March?

A. I met Mr. Petty one day in the Spring.

Q. If he says that date was May 28, 1951, would that be correct?

A. I would take his word for it.

192 Q. You were not giving Knetzer any money from April 1 through May 28, other than the $540?

A. I had given him $260 on the 21st.

Q. Wasn't that in August?

A. May 21, 1951.

Q. Was that what you testified on your deposition you gave him $260 during the summer?

A. During the summer—could have been the $300 when he was in the hospital.

Q. Did I ask you "Did you give him any money after that" and you answered "I gave him $260 during the summer?"

A. That would be it.

Q. Did you see Clint Petty open a sack and give Knetzer $14,500 on May 28th?

A. Knetzer received money from Mr. Petty but I don't know the amount.

Q. On that day Clint Petty did open a sack in your presence that had money in it and handed to Mr. Knetzer?

A. He had a sack and they put it on the bed or something and the three of us were going out. I was invited up by Mr. Knetzer and Mr. Petty came in and was surprized to see another man, and he introduced us and said
193 "This fellow is all right, in this thing with us" and Mr. Petty, I think, passed the sack or put it on the bed, and as we were going out, in a matter of minutes, Mr. Petty reminded Mr. Knetzer about the parcel and he went back and received it and we left the hotel and that is the last I saw Mr. Petty until—

Q. If during the period from December 7, 1950 through January 8, 1951, Robert Knetzer only paid Mr. William Dunham the sum of $10,000, you don't know what he did with the rest of the money?

A. I know he told me later on.

Q. During that period Mr. Knetzer was working on the corporation deal?

A. Yes, sir.

Q. How much money he spent on the deal you don't know? And as far as you know, when he died he may have had some in the corporation?

A. I don't know.

Q. As far as your personal knowledge, you don't know, other than this first $6100, how much of your money was turned over to William Dunham by Mr. Knetzer or anyone for him?

194 A. Other than information received from Knetzer.

Q. Other than that you have no personal knowledge?

A. No, sir.

Q. Along in January 1951 you gave Knetzer $1,000 the day before he went to jail?

A. I gave him the $1,000 and did not know he was going to jail.

Q. He went that afternoon?

A. I don't know—I heard he was in jail.

Q. And this $300 you gave him in the hospital was for expenses—

A. To keep in contact with the Bison development transaction.

Q. About that time you were snooping around to see what he had done with your money?

A. Yes, sir.

Q. That was in the summer of 1951?

A. Yes, sir.

Q. And the F.B.I., you say you had some conversation, you had been in contact with the F.B.I.?

A. The F.B.I. contacted me, I don't know the date.

195 Q. You were snooping around on Knetzer at that time?

A. No, not until after his stay in the hospital.

Q. That was before you gave him $4800 more?

A. Yes, for which he gave me security.

Q. And you collected that?

A. No, collected on it.

Q. What was the security for the other $2000?

A. He gave me a signed title and mortgage signed by his wife for the $2800 and my brother received $2800 back from a relative of Mrs. Knetzer after Mr. Knetzer was confined in jail and she was pregnant and I released the car back to her on the payment of the $2800 so she could have some money for the birth of the baby.

Q. You had secured the money and gave it up?

A. Yes, sir.

Q. That $4800 was not given on a deal to do with this investment? Why did you require him to give you security?

A. I had realized this man could not be trusted.

196 Q. If you knew him—you did not give him $4800—you loaned it to him and took title to his car?

A. He said it was to be used on the project—he says "You fellows are kicking me when I am down."

Q. You testified this morning some of this money was to be used by the corporation to show on their books as assets to make their loan application look better?

A. Yes, sir.

Q. How was that to get into the corporation without knowing Knetzer's name?

A. I don't know.

Q. That shows he was a con man?

Mr. Bonjean: Object.

The Court: It may stand.

Mr. Horsley: You knew he never delivered any tractors except three?

A. I don't know. All I know is I didn't get mine.

Q You saw the account in the paper that the only tractors were three he got from Ralph Riley?

A. I don't know.

197 Q. You never saw any balance sheet or any statements of this corporation?

A. No, sir.

Q. Even though a part of your money was supposed to go into the assets of the corporation?

A. Yes, sir.

Q. But you still looked to Knetzer to pay that money to you and not to the corporation?

A. Yes, sir.

Q. Your attorney here has had some notes, which he has had identified and you have testified about. If you were to share in the profits of this transaction, why do these notes bear the dates on which you were to be repaid?

A. For the reason that Knetzer knew I was borrowing from individuals and I could not get into anything that would break out.

Q. He knew you was borrowing the money?

A. Yes, sir.

Q. Did he talk to these people?

A. No, sir.

Q. Did you tell them what you were doing with the money?

A. No, sir.

198 Q. After this R.F.C. thing fell apart, then this $4800 on which you took title to his car, was that to go in the same development?

A. Other than he was going to develop a Christmas tree project. He had Mr. Kane drawing plans for a huge mail order of some kind.

Q. Did you see those plans?

A. I saw Mr. Knetzer at the Statler Hotel with the plans.

Q. When was that?

A. Shortly after Knetzer was released from the hospital in 1951.

Q. And you knew Knetzer was an officer of the corporation?

A. Yes, sir.

Q. Did you talk to him?

A. No, sir.

Q. At that time, you testified you were snooping around.

A. I don't think it was at that time.

Q. Right after he got out of the hospital you were snooping around?

A. Yes, sir.

Q. And yet you didn't ask Mr. Kane about it?

A. I didn't even ask Mr. Knetzer.

Q. I thought you said you saw the blue prints?

199 A. He had the plans but I didn't meet him.

Q. How did you know he was there?

A. Knetzer told me.

Q. You didn't ask him?

A. He was there with his boy; he said "This is a big deal, this is not dead."

Mr. Horsley: I disclaim the answer.

The Court: It may be stricken.

Mr. Horsley: You never asked him about the turn over order for this $6100?

A. No, sir.

Q. Never had any conversation with him until this affidavit in 1952?

A. Not until after he was confined in jail in 1952, in February.

Q. Did you know Gerald Sammons?

A. Not other than seeing him at the Grand Jury investigation.

Q. You heard him testify that he loaned Knetzer $101,550 between October 1951 and February 1952?

A. I don't know if I heard the testimony. It was restricted from the witnesses.

Q. Did you know the total amount Clint Petty put in, in April and May 1951?

200 A. I don't know anything about his dealings with Mr. Knetzer. I saw him one time in the Spring.

Q. You knew that the Marshal—he was supposed to be in the custody of the Marshal when he was out?

A. —

Q. I asked you about that in December. You know about Grant?

A. I do now. I didn't know.

Q. You knew the Marshal was in another room at that time?

A. I asked him and he said that was paper talk "I am not in custody of anyone."

Q. He reported to him in St. Louis?

A. I don't know. I never saw Mr. Grant.

Q. As far as you know you don't know what was done with the money you gave to Mr. Knetzer?

A. No, sir.

Q. And you don't know whether there are some oil or timber properties, of your own personal knowledge?

A. That is right.

Q. This $1,000 that you gave him on January 8, 1951, he told you he needed that for attorneys' fees?

A. Yes and expenses on his development.

Q. You had an attorney who handled your affairs?

A. Any time I had something.

Q. Who was the attorney who was going to handle this for Knetzer?

A. He named several. One was Larry Woods of Montana, he named Mr. Wiseman of Alton.

Q. You knew Wiseman was his attorney along with Phil Listman? You wrote a letter to Wiseman when you wanted to get your $11,300?

A. Yes, sir.

Q. You knew Wiseman was the attorney?

A. That was two years—two months previous.

Q. You brought Mrs. Knetzer up here every few days to see Mr. Knetzer in jail?

A. Yes, sir.

Q. Did you drive Knetzer back and forth every day during the trial?

A. Yes. I was under subpoena.

Q. You brought Knetzer back and forth?

A. Yes, sir.

Q. Every day of a trial that lasted about three weeks?

A. That was the snooping.

202 Q. You just brought him back to snoop?

A. With the sanction of the F.B.I.—that dates back to the Fall of 1951.

Q. Summer of 1951, before you loaned him $4800 more?

A. For which I got security.

Q. You don't claim that $4800 in this transaction?

A. No, sir.

Q. You don't claim the other $2,000?

A. Yes, sir.

Q. You gave up security that you had in your possession?

A. I did not give it up. He talked me out of it.

Q. I am talking about January 1953 when you drove Knetzer up here every day? That is true?

A. Yes, sir.

Q. Were you paid any expenses by him?

A. Still owes me for that. My subpoena fee, witness fee, but he mostly bought the gas.

Q. But you never filed a claim for your witness fee?

A. That would have to come from Knetzer.

Mr. Horsley: That is all.

203 *Re-Direct Examination by Mr. Bonjean*

Q. Mr. Jaffke, you were asked by Mr. Horsley on cross examination if you had made this statement on a deposition hearing on March 26, 1953: Q. "How was this $6100 to be repaid to you" and you gave this answer: "He was to get it back to me when he got it from another individual later." Did Mr. Horsley ask you this question: "Did he assure you he had plenty of assets he could make this good as soon as he could get cleared up with the Court?"

Mr. Horsley: Object.

The Court: Let him answer.

Mr. Bonjean: Did you make this answer? "He did not assure me had any assets except he had several deals pending, and there would be considerable money involved and that this building project would involve an R.F.C. loan and out of the construction of houses that would go fast, he would have money coming in."

Mr. Horsley: Object. Does not explain anything.

The Court: I think we have already had that in the record. I don't think it makes any difference. Let him answer.

204 Mr. Bonjean: Did you make that answer?

A. Yes, sir.

Q. On this trial of Mr. Knetzer for concealment of assets, you stated on cross-examination that you were subpoenaed as a witness?

A. Yes, sir.

Q. During your testimony, Mr. Horsley asked you if Mr. Wiseman asked you this question: "Since October 5, 1948, have you loaned any money to Robert L. Knetzer?" and you answered: "Yes, Mr. Knetzer received the sum of $47,980 from me."

A. That is correct.

Q. Were you asked any further questions at that time as to for what purpose you gave him that money?

A. I would not remember that. I doubt it.

Mr. Bonjean: That is all.

(Witness excused.)

Mr. Horsley: I again renew my motion to strike all of the testimony of this witness and to strike those portions to which objections have been made throughout.

205 The Court: Motion denied, but the Court will take the objections and motions on the specific grounds as designated by Counsel.

(Witness excused.)

Mr. Bonjean: Mr. Cohn.

SAUL E. COHN, called as a witness, having been first duly sworn on oath, was examined, and testified as follows:

Mr. Bonjean: State your name.

A. Saule E. Cohn.

Q. Where do you reside?

A. 700 N. 39th, E. St. Louis.

Q. What is your business?

A. Lawyer.

Q. Duly licensed to practice in the State of Illinois?

A. Yes, sir.

Q. How long?

A. Twenty-one years.

Q. Your office is where?

A. 430 Mercantile Bldg., E. St. Louis.

Q. Calling your attention to the period from December 7, 1950 to November 1, 1951, did you make any payments to Mr. William Dunham, Trustee in Bankruptcy?

206 A. Yes, sir. I assume that is the period.

Q. I believe Mr. Dunham has testified that from April 14, 1951 to November 1951 you paid approximately $70,000 to the Trustee.

A. I paid the Trustee some money. It might have been —if you say that is the amount.

Q. Can you tell the Court from whom you received that money?

A. Some times Robert Knetzer—and other people.

Q. How much did you receive from Robert Knetzer?

A. A large portion of it.

Q. In excess of $30,000?

A. All I can say is that more of it was paid by him than any other one. I don't have my records with me. Mr. Giffin called me this morning and I told him I would be delayed if I went to my office.

Q. Do you know where Mr. Knetzer obtained the money?

A. No, sir.

Q. On any of these occasions when you received money from Mr. Knetzer, did you ever see Mr. Robert Jaffke
207 with him?

A. One time.

Q. Can you tell the circumstances?

A. I may be confused. I saw them at Springfield at a hearing and I have a recollection I saw him one time in the office. I have never known his name until today, but I think on one occasion the girl called me that Mr. Knetzer was in the office, and Mr. Jaffke was there.

Q. Was he present at any time when Mr. Knetzer turned money over to you?

A. No, sir.

Q. Did Mr. Knetzer turn money over to you on that date?

A. No, sir.

Mr. Bonjean: That is all.

I would like to offer Exhibits 1 through 28. We have some other exhibits to present. I will ask that this be marked Exhibit No. 29. (Exhibit marked.) Stipulate that these are records in the proceedings of the bankruptcy case. No. 29 is a record, and No. 30 is a certified copy by the Clerk of the Court of the indictment of Knetzer of defrauding Robert Jaffke of money. Nos. 1 through 23 exhibits showing loans obtained by Mr. Jaffke in order to

pay this money. Receipts and checks that he paid
208 out to Mr. Knetzer.

Mr. Horsley: Defendant objects to Exhibits 5, 9, 10, 11, 12, 13, 14, 14-A, 15 and 15-A, 16 and 16-A, 17, 18, 19, 20, 21, 22 and 23, for the reason that the foundation upon which said exhibits are based are given by the witness, who is incompetent under the Evidence Act of the State of Illinois and under the Rules of Evidence and Statutes governing the receipt of evidence by this Court, and said exhibits are incompetent and irrelevant.

The Court: Objection over-ruled. Exhibits admitted subject to briefs to be submitted by Counsel on both sides.

Mr. Horsley: On the other exhibits, I want to offer the same objection that they are self-serving documents on the part of the plaintiff. As to 6, 7 and 8, these are based upon testimony of a witness who is not competent to testify for the reasons heretofore given.

The Court: Objection will still be over-ruled, with the same statement that I have heretofore made regarding the former objection.

Mr. Horsley: Exhibit No. 24 is objected to for the
209 reason that it consists of hearsay testimony, consists of a declaration of a bankrupt which is contrary to the title of the Trustee, with such admission being made after bankruptcy and also after title to the specific moneys involved has passed to the Trustee and that same cannot be binding upon the Trustee, that same is not in the same category as the declaration against interest on the part of the bankrupt and that same is contrary to the testimony given by the plaintiff, and that the foundation for such exhibit is based upon incompetent testimony of Robert Jaffke, who is not a competent witness to testify for the reasons heretofore given, and that it is an ex parti affidavit without any right of cross-examination on the part of the defendant.

Otherwise irrelevant, incompetent and immaterial.

The Court: I am going to allow it at this time and you may discuss it in your briefs.

(Exhibits 1 through 30 admitted subject to briefs being submitted.)

Mr. Horsley: Exhibits 25 and 26 objected to on the same grounds as Exhibits 5 and on.

The Court: Objection over-ruled.

210 Mr. Horsley: Exhibits 27 and 28 objected to on the same grounds as Exhibit 24, as heretofore stated. I want to make the further objection that it is contrary to the evidence of the petitioner here and I believe is an effort to impeach his own testimony, irrelevant, incompetent and immaterial.

The Court: Admitted at this time.

Mr. Horsley: Object to 30, being the indictment of Robert L. Knetzer for supposedly defrauding Robert Jaffke. The man was never tried upon the case and the indictment is never considered as competent evidence.

The Court: I will admit it nevertheless.

Mr. Horsley: Pure hearsay evidence and incompetent, irrelevant. Exhibit 29 is a transcript of proceedings had on March 11, 1952 before Hon. Charles G. Briggle, in the presence of Mr. William Giffin, who was then attorney for Robert L. Knetzer. This is a transcript of hearing had on the petition of the bankrupt to be released from jail in the custody of his attorneys to get out and get the money and bring it in.

Mr. Giffin: In this statement, the bankrupt was put under oath and sworn in the presence of the Trustee's
211 attorney and the Court—he stated when Mr. Doyle interrogated him, what the record shows, that he had borrowed from different people—Mr. Knetzer testified he borrowed more than $40,000 from Mr. Jaffke. Testified in open Court.

The Court: I think it will be admitted, and I will listen to any objection.

Mr. Horsley: Transcripts of a hearing are not admissible against the title of a trustee.

Cross-Examination by Mr. Giffin

Q. What is your profession?

A. At the present time commercial fisherman.

Q. What were you at the time you loaned the money to Mr. Knetzer?

A. We operated a cigar store. Booked horses.

Mr. Giffin: That is all.

(Witness excused.)

Mr. Horsley: Ralph Riley.

RALPH RILEY, called as a witness, having been first duly sworn on oath, was examined, and testified as follows:

215 Mr. Horsley: State your name and address.

A. Ralph Riley, 226 W. Spring, Booneville, Missouri.

Q. Were you acquainted with Robert Knetzer?

A. Yes, sir.

Q. Did you give to him any money in the year 1950?

A. Yes, sir.

Q. Can you give us the dates and amounts, approximately?

A. Total amount $32,000, June 28, $250, June 29, $1,000, July 12 or 15, $6,000, latter part of July or first part of August $9,000.

Mr. Horsley: I have these dates if Counsel does not object.

The Court: That is all right. State what you have testified to and you go ahead and testify from the records.

A. June 28, 1950, $250, June 30, $1,000, July 2, $600, July 18, $6000, July 27, $9,000, August 2, $200, August 10, $8,000, August 22, $2208, August 27, $2831, Sept. 12, $2300.

Mr. Horsley: Is that the last money you gave to him?

A. Yes, sir.

216 Q. Do you have any personal knowledge as to what he did with the money?

A. No, sir.

Q. Did you have a conversation with Mr. Jaffke in March or April 1951?

A. Yes, sir.

Q. Did you at that time advise him as to your dealings with Knetzer in this matter?

A. We talking about our dealings.

Q. Had you been trying to get your money back from Mr. Knetzer?

A. Yes, sir.

Q. Did you so advise Mr. Jaffke?

A. I advised him I was in town to collect for a Cadillac that belonged to me and I did collect.

Mr. Horsley: That is all.

Cross-Examination by Mr. Giffin

Q. When was the last date Mr. Knetzer obtained any money from you?

A. Sept. 12, 1950.

Q. What did he obtain that money for?

Mr. Horsley: Object.

Mr. Bonjean: It is important.

217 The Court: I think he may answer.

A. It was to be used for the development of lumber and oil leases in Canada and Wyoming and Montana.

Q. Directing your attention to December 1950, you had never met Robert Jaffke at that time?

A. No, sir.

Q. Did you see him?

A. Yes, sir.

Q. At that time you had not made any investigation or had found that any of your so-called properties in the company were non-existent at that time?

A. No, sir.

Q. At that time you still—your connection was in this development of these activities?

A. Yes, sir.

Q. About when was it you first became skeptical?

A. About the middle of January 1951.

Q. You did not so advise Mr. Jaffke immediately?

A. I have no recollection of seeing Mr. Jaffke until March. I had met him in December, but I have no
218 recollection—

Q. Did you afterwards learn that Mr. Knetzer was saying that Mr. Jaffke was doing this and you were doing that and you had a misunderstanding as to what—

Mr. Horsley: Object to the question.

Mr. Giffin: Strike the question. You did, at a later date, talk to Mr. Jaffke?

A. Yes, sir.

Q. At that time you found that your views were very similar as to the corporation?

Mr. Horsley: Object.

The Court: Sustained.

Mr. Giffin: You never got any money back from the corporation?

A. No, sir.

Q. Did you make any investigation?

A. Yes, sir.

Q. Did your investigation take you all over the country?

A. Yes, sir.

Q. But you still do not know but what maybe there were assets when he died?

A. No, sir.

Mr. Giffin: That is all. (Witness excused.)

219 Mr. Horsley: I think the Court can take judicial notice of the number of claims that have been filed in this bankruptcy, well in excess of over a million dollars undisputed claims approximately 800 to 1000 claims still pending.

Mr. Bonjean: The claims you refer to are claims that arose prior to the bankruptcy.

Mr. Horsley: Correct. And the bankrupt estate is hopelessly insolvent and will not pay out.

The Court: We have a lot of important legal objections before us and I take it the better way to do this is to file briefs, and you can discuss the question of my admitting testimony and certain exhibits and make it as plain as you care to make it, and state the law as you see it. I don't think the Court can be very much confused about the facts of the money paid in. How much time do you wish?

Mr. Giffin: I think the Court will be well apprised to the law in our briefs. We can include the argument in the briefs.

The Court: Thirty days to Mr. Bonjean and ten days for Mr. Horsley's reply, if agreeable?

Mr. Bonjean: Yes, sir.

Mr. Horsley: Yes, sir.

220 The Court: Court adjourned.

(Which were all of the proceedings had in the hearing of the above entitled cause as of this date.)

Indorsed
Filed May 31, 1955
G. W. Schwaner, Clerk.

PETITIONER'S EXHIBIT NO. 1

TURNOVER ORDER OF Judge Charles G. Briggle entered July 11, 1949

222 ENTERED at Springfield, Illinois in said District this 11th day of July, 1949.

This matter coming on before the Court on the verified petition of William C. Dunham, Trustee in Bankruptcy for the Estate of Robert L. Knetzer, Bankrupt, and the Court having heard the testimony of witnesses in open court and the arguments of counsel, doth find:

1. That Robert L. Knetzer has in his possession or under his control the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) which should be turned over to the said William C. Dunham as Trustee for his bankrupt Estate as a part of the assets belonging to said bankrupt Estate at the time of the filing of the petition in bankruptcy herein, for the benefit of the creditors of the said Robert L. Knetzer.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the said Robert L. Knetzer shall forthwith pay to the said William C. Dunham, as Trustee, the sum of Two Hundred Fifty Thousand Dollars ($250,000.00).

2. That in the event payment of said amount is not made to said Trustee on or before November 1, 1949, such fact be reported to the Court for further proceedings.

3. That the hearings on this matter have been both in the Estate of Robert L. Knetzer and Knetzer Motor Sales Co., Bankrupts, and that William C. Dunham, as Trustee for Knetzer Motor Sales Co., is not entitled to any turn over order against said Robert L. Knetzer, but that the moneys recovered hereunder shall be held by the said William C. Dunham as Trustee for the bankrupt estate of Robert L. Knetzer for the benefit of the creditors of the said Robert L. Knetzer.

/s/ Chas. G. Briggle
U. S. District Judge

PETITIONER'S EXHIBIT NO. 2

Report of Trustee and Request for Order to Show Cause of William C. Dunham, Trustee in Bankruptcy of Robert L. Knetzer

223 To the Honorable Charles G. Briggle, Judge of The District Court of The United States for the Southern District of Illinois, Southern Division, your petitioner respectfully reports:

1. Your petitioner is the duly qualified and acting trustee in bankruptcy of the above named bankrupt.

2. On to wit July 11, 1949 this honorable court entered an order directing Robert L. Knetzer, the bankrupt, to turn over and deliver to your petitioner on or before November 1, 1949 the sum of two hundred and fifty thousand dollars ($250,000.00) and further ordering your petitioner to report to this Court on or before November 1, 1949 as to whether or not such payment had been made.

3. That on to wit July 11, 1949, a copy of said order was duly served upon the said Robert L. Knetzer in the presence of his Attorney.

4. That the said Robert L. Knetzer has disobeyed said order and has failed and refused to turn over said sum of two hundred and fifty thousand dollars ($250,000.00) to your petitioner.

WHEREFORE, your petitioner prays that this honorable Court will issue an order to be served upon the said Robert L. Knetzer requiring him to appear before this Court upon a day certain to show cause why he should not be adjudged in contempt of court by reason of the facts and because of his failure to obey the order of this Court dated July 11, 1949 and that the said Robert L. Knetzer shall be committed until such time as he shall obey said order; and that your petitioner have such other and further relief as is just.

/s/ William C. Dunham
Petitioner

/s/ G. W. Horsley
505 Ill. Natl. Bank Bldg.
Springfield, Illinois
Attorney for Petitioner

STATE OF ILLINOIS }
COUNTY OF ST. CLAIR } SS.

I WILLIAM C. DUNHAM, the petitioner in the
224 foregoing petition, do hereby make solemn oath that the statements contained therein are true and correct according to the best of my knowledge, information and belief.

/s/ William C. Dunham
(Seal) Petitioner

Subscribed and sworn to before me this 1st day of November, 1949.

/s/ L. B. Diefenbach
Notary Public

PETITIONER'S EXHIBIT NO. 3

ORDER TO SHOW CAUSE

Entered by Judge Charles G. Briggle
on November 2, 1949

225 At Springfield, Illinois in said District this 2d day of November A. D. 1949.

The verified petition of William C. Dunham, Trustee herein, having been filed this date, wherein said Trustee reports to this Court that Robert L. Knetzer, Bankrupt, has failed to comply with the order of this Court under date of July 11, 1949 ordering the said Robert L. Knetzer to turn over to William C. Dunham, as Trustee, the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) and the Court being fully advised in the premises,

IT IS HEREBY ORDERED that Robert L. Knetzer be and he hereby is, ordered to appear before the sitting judge of the District Court of the United States for the Southern District of Illinois, Southern Division, in the Federal District Court room in the Federal Court Building in Springfield, Illinois on the 15th day of November, 1949 at 10:00 o'clock A.M. to show cause why he should not be adjudged in contempt by reason of his failure to comply with the order of this Court ordering the said Robert L. Knetzer

to turn over to William C. Dunham, as Trustee, the sum of Two Hundred Fifty Thousand Dollars ($250,000.00), and to further show cause why he should not then and there by committed to prison or otherwise dealt with until he shall obey said lawful order of this Court; and

IT IS FURTHER ORDERED that service of this Order shall be deemed sufficient if a copy thereof be served upon Philip G. Listeman, Attorney for said Robert L. Knetzer, on or before the 5th day of November, 1949.

/s/ Chas. G. Briggle
District Judge

PETITIONER'S EXHIBIT NO. 4

ORDER ADJUDGING BANKRUPT IN CONTEMPT

ENTERED December 1, 1949 together with subsequent orders endorsed thereon

226 At Springfield, Illinois, in said District, this 1st day of December, A.D., 1949.

The petition of William C. Dunham, Trustee in Bankruptcy of the above named Bankrupt, having been filed in this court asking that Robert L. Knetzer be cited to appear and show cause before this court why he should not be adjudged in contempt of court for wilful failure to comply with the order of this Court entered July 11, 1949, ordering the said Robert L. Knetzer, Bankrupt, to turn over to William C. Dunham, as Trustee, the sum of Two Hundred Fifty Thousand Dollars ($250,000.00) forthwith, and asking this Court to commit said Robert L. Knetzer, or otherwise deal with him; and notice of said hearing having been given to Philip G. Listeman, Attorney for the said Robert L. Knetzer, and the said Robert L. Knetzer being present this day in court personally, in company with his attorney, Philip G. Listeman; and the Court having heard the evidence and the arguments of counsel, and the said Robert L. Knetzer having waived the necessity of presenting detailed evidence and having failed to file an answer to the petition of the Trustee to show cause and not having presented any evidence;

And it further appearing to the Court that the said Robert L. Knetzer has wilfully disobeyed the order of this Court entered July 11, 1949, and has wilfully failed to turn over to William C. Dunham, as Trustee in Bankruptcy of the estate of Robert L. Knetzer, the sum of Two Hundred Fifty Thousand Dollars ($250,000.00), or any part thereof, which this Court has previously found that the said Robert L. Knetzer has in his possession and should account for, and no showing having been made by the Bankrupt as to any reason why he should not be committed for his failure to comply with the said order dated July 11, 1949;

And the evidence is such as to warrant the committment of the said Robert L. Knetzer to the custody of the Attorney General of the United States for disobeying such lawful order, until he obeys such order;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the said Robert L. Knetzer be, and he hereby is, held to be in contempt of Court for disobedience of the said lawful order of this Court dated July 11, 1949.

227 IT IS FURTHER ORDERED that the said Robert L. Knetzer be, and he hereby is, committed to the custody of the Attorney General of the United States for confinement in an institution of the jail type, to be confined until he shall obey the said lawful order of this Court, or until the further order of the Court.

IT IS FURTHER ORDERED that the execution hereunder be stayed until January 10, 1950.

IT IS FURTHER ORDERED that appearance bond of the said Robert L. Knetzer shall be, and the same is hereby, set at Twenty Five Thousand Dollars ($25,000.00), to be approved by the United States Commissioner for the Southern District of Illinois, Southern Division, and that the present bond previously given by the said Robert L. Knetzer for his appearance in this matter shall be, and the same is hereby, continued until the further order of this Court.

/s/ Chas. G. Briggle
District Judge

For good cause shown it is ordered that the execution heretofore stayed to Jan. 10, 1950, be further stayed to January 18th, 1950, at 10 o'clock A.M. and the appearance bond is continued in full force and effect. Dated Jan. 10, 1950.

/s/ Charles G. Briggle
U.S.D.J.

On Motion of bankrupt and for good cause shown execution further stayed to Feb. 18, 1950.

/s/ Charles G. Briggle
U.S.D.J.

15. The following shall be printed in lieu of Petitioner's Exhibits 5 through 30, inclusive:

228 "Petitioner's Exhibit 5 is a check in the amount of $1300.00, dated June 17, 1947, drawn on the Tower Grove Bank and Trust Company, St. Louis, Missouri, signed by Robert W. Jaffke and made payable to Robert L. Knetzer. The endorsement on the back side shows that it was deposited in the Edwardsville National Bank and Trust Company on June 21, 1947 and bears the stamped endorsement of Knetzer Motor Sales Co. over the written signature of Robert L. Knetzer, and above the endorsement appears, 'Deposit 1947 or 48 Buick'.

229 "Petitioner's Exhibit 6 is a receipt in words and figures as follows:

St. Louis, Mo.
No. Phone-Highland 8279 April 8, 1948

Received from Richard Jaffke
Thirteen hundred only .....Dollars

Deposit on one 1948 super 2 dr. Buick. To be delivered by April 20, 1948. Or money refunded.
$1300.00 Robert L. Knetzer

230 "Petitioner's Exhibit 7 is a check dated April 8, 1948, drawn on the Mercantile-Commerce Bank and Trust Company, payable to the order of Knetzer Motor Sales Co. in the sum of $7000.00, signed by Robert W. Jaffke, deposited in the Edwardsville National Bank and Trust

Company on April 8, 1948, endorsed by rubber stamp of Knetzer Motor Sales Co. over the signature of Robert L. Knetzer. Said Exhibit contains the notation, 'Deposit on Farmall "M" Tractors'.

231 "Petitioner's Exhibit 8 is a receipt in words and figures as follows:

6454 Marmaduke
St. Louis, Mo.
No. Phone - Hi 8279 April 8, 1948

Received from Robert W. Jaffke
Ten Thousand only .....Dollars

231 Deposit on ten new Farmall 'M' tractors. To be delivered by April 20, 1948 in Omaha, Nebr. Or money refunded.
$10,000.00 Robert L. Knetzer

232 "Petitioner's Exhibit 9 is a check dated March 24, 1948, drawn on the Tower Grove Bank and Trust Company in the amount of $3000.00, payable to the order of Knetzer Motor Sales Co. and signed Robert W. Jaffke. Said check was deposited in the Edwardsville National Bank and Trust Company on March 24, 1948, endorsed by rubber stamp Knetzer Motor Sales Co. over the signature of Robert L. Knetzer, and bears the following notation, 'Deposit on 3 new Farmal "M" Tractors'.

233–244 "Petitioner's Exhibit 10 is an account book with the Mercantile-Commerce Bank and Trust Company in the name of Robert W. or H. C. Jaffke, 6454 Marmaduke, bearing notation, 'Either or Survivor'. Said pass book shows the following deposits: (It is proposed that the printer will print the date and amount of each deposit as shown in said pass book, rather than reproduce each page of said pass book.)

Apr. 8, 1948	$ 658.28	July 27, 1948	350.76
Apr. 8, 1948	10,000.00	July 29, 1948	3,500.00
Apr. 20	3,170.51	Aug. 9, 1948	1,074.75
Apr. 26, 1948	1,091.70	Aug. 16	172.50
May 13	867.69	Aug. 26, 1948	272.00
June 3, 1948	1,013.34	Aug. 16	1,500.00

June 17	4,878.25	Aug. 20	1,500.00
June 17, 1948	4,000.00	Aug. 25	3,921.00
June 24	3,789.33	Sept. 10	803.80
July 12	910.43	Sept. 17, 1948	1,325.98
July 23, 1948	2,000.00	Oct.	988.08
Oct. 7, 1948	2,563.39	Feb. 23	2,000.00
Oct. 29	9,399.77	Mar. 8	854.52
Nov. 5, 1948	8,200.00	Mar. 16	954.75
Nov. 26	3,406.00	Mar. 21	500.00
Dec. 7, 1948	527.22	Mar. 24	715.63
Dec. 21, 1948	3,379.60	Mar. 28	3,407.36
Dec. 29, 1948	460.00	Apr. 15	1,435.96
Jan. 7, 1949	1,736.43	Apr. 29	800.47
Jan. 10, 1949	2,000.00	May 18	1,497.45
Jan. 21	3,325.02	June 9	1,231.35
Jan. 27	7,000.00	June 17, 1949	938.85
Feb. 4, 1949	12,012.04		
June 30	1,696.18	Sept. 6	450.00
July 6	330.65	Sept. 14	3,771.35
July 7	1,239.17	Sept. 16	2,949.36
July 21	1,500.00	Sept. 23, 1949	2,876.26
July 28	788.55	Oct. 14, 1949	1,697.44
Aug. 10, 1949	968.34	Oct. 28, 1949	5,088.41
Aug. 15	869.90	Oct. 31	6,092.46
Aug. 17	2,000.00	Nov. 22, 1949	934.40
Aug. 18, 1949	1,125.75	Dec. 6	11,400.00
Sept. 2	264.41	Dec. 16	1,311.46
Sept. 9, 1949	3,000.00	Dec. 28	394.07
Jan. 5, 1950	3,899.88	Mar. 15, 1950	2,000.00
Jan. 10	572.50	Mar. 21	346.90
Jan. 13	6,210.37	Mar. 27, 1950	380.14
Jan. 19, 1950	4,000.00	Apr. 4, 1950	922.16
Jan. 24, 1950	1,057.13	Apr. 7, 1950	529.69
Feb. 7, 1950	764.84	Apr. 7, 1950	2,000.00
Feb. 16	445.72	Apr. 14, 1950	6,947.35
Mar. 1, 1950	238.60	Apr. 28, 1950	783.77
Mar. 1, 1950	12,000.00	May 4, 1950	1,044.34
Mar. 3, 1950	887.50	May 16	374.09
Mar. 7, 1950	638.44	May 22, 1950	520.74

May 29, 1950 ...	1,769.86	Aug. 22, 1950 ...	716.25
June 2, 1950	415.16	Sept. 13, 1950 ..	626.78
June 5, 1950	3,000.00	Sept. 15	2,857.15
June 12, 1950 ...	1,029.62	Sept. 21, 1950 ..	6,964.28
June 29	378.13	Oct. 16	1,116.71
June 29	5,979.49	Oct. 2	3,669.50
July 11, 1950 ...	964.50	Oct. 15	1,775.07
July 12, 1950 ...	716.00	Nov. 16, 1950	5,000.00
July 14, 1950 ...	360.00	Nov. 27	1,356.14
July 14, 1950 ..	1,000.00	Dec. 7, 1950	530.87
Aug. 11	1,078.36	Dec. 7, 1950	2,000.00
Aug. 18	6,047.50		
Dec. 7, 1950	3,500.00	Feb. 19, 1951 ...	239.52
Dec. 18, 1950	799.87	Mar. 14, 1951 ...	1,300.88
Dec. 20	3,967.90	Mar. 22, 1951 ...	3,564.00
1951		Mar. 26	367.22
Jan. 3	4,948.10	Apr. 2, 1951	1,426.00
Jan. 3	569.33	Apr. 17, 1951 ...	695.38
Jan. 4	818.98	May 3, 1951	769.36
Jan. 8, 1951	470.10	May 7	578.85
Jan. 22, 1951	459.36	May 9	2,300.00
Jan. 30	1,709.80	May 21, 1951 ...	635.51
Feb. 6, 1951	765.51	June 4, 1951	983.49
June 6, 1951	5,379.10	Aug. 27, 1951 ...	247.17
June 8	601.50	Sept. 5, 1951	510.72
June 18, 1951 ...	969.73	Sept. 8, 1951	396.59
June 18	4,864.50	Sept. 19, 1951 ..	692.10
June 28, 1951 ...	474.34	Sept. 24, 1951 ...	267.75
July 9, 1951	1,233.86	Oct. 4	315.25
July 13, 1951 ...	1,764.38	Oct. 16	511.52
Aug. 3, 1951	795.58	Oct. 19	1,137.10
Aug. 10, 1951 ...	1,254.50	Oct. 22, 1951 ...	1,542.00
Aug. 14	121.58	Oct. 25, 1951	2,820.00
Aug. 17, 1951 ..	272.26	Oct. 30, 1951 ...	465.30
Nov. 2, 1951	265.02	Jan. 22, 1952	425.50
Nov. 13	575.69	Jan. 31	1,249.86
Nov. 20	509.00	Feb. 8	465.33
Nov. 26	705.00	Mar. 4	525.78

Dec. 3	242.14	Mar. 12	649.50
Dec. 7, 1951	335.58	Mar. 14, 1952	462.75
Dec. 18	510.98	Mar. 27	365.78
Dec. 24	424.50	Apr. 4, 1952	515.97
Dec. 31, 1951	3,700.00	Apr. 25	851.26
Dec. 31, 1951	389.92	May 5	1,588.08
Jan. 7, 1952	1,750.33	May 14, 1952	609.08
Jan. 11, 1952	801.39	May 19, 1952	733.00
June 11, 1952	863.30	Sept. 9, 1952	717.83
June 25, 1952	1,069.55	Sept. 15, 1952	445.94
July 7	1,214.01	Sept. 29, 1952	577.17
July 9, 1952	11,599.25	Oct. 10, 1952	392.80
July 28, 1952	1,439.19	Oct. 24	349.12
Aug. 6, 1952	1,341.17	Nov. 6, 1952	699.03
Aug. 12	212.15	Nov. 7	354.38
Aug. 28	750.47	Nov. 20	2,229.13
Aug. 28	700.00	Dec. 3, 1952	1,074.65
Aug. 29	5,000.00	Dec. 24	1,495.25
1953		Mar. 27, 1953	18,894.70
Jan. 2	507.95	Apr. 3, 1953	945.89
Jan. 8	575.33	May 12	1,200.25
Jan. 13	701.25	May 18, 1953	1,133.58
Feb. 2, 1953	1,087.04	June 8	523.20
Feb. 9	200.83	June 19, 1953	538.14
Feb. 18	817.40	June 24, 1953	400.00
Feb. 27, 1953	1,315.78	July 1, 1953	5,616.57
Mar. 9	751.87	July 1	375.20
Mar. 17	19,361.09	Aug. 4, 1953	1,487.58
Mar. 10	9,000.00		
Aug. 21, 1953	1,272.25	Nov. 23, 1953	3,463.75
Aug. 24, 1953	1,500.00	Dec. 7	555.29
Sept. 9, 1953	541.54	Dec. 18, 1953	2,295.79
Sept. 16	2,078.87	Dec. 28	1,520.28
Sept. 29	258.71	Jan. 4, 1954	6,500.00
Sept. 29	260.00	Jan. 13	441.46
Oct. 6, 1953	1,662.31	Jan. 19	4,841.12
Oct. 14, 1953	237.18	Feb. 3, 1954	10,296.39
Oct. 20	5,275.25	Feb. 5	6,270.80
Oct. 23	376.07	Feb. 18, 1954	800.03
Nov. 13	4,538.40	Mar. 17, 1954	3,994.40

245 "Petitioner's Exhibit 11 is a check dated December 7, 1950, drawn on the Mercantile-Commerce Bank and Trust Company in the amount of $3800.00, payable to the order of Robert W. Jaffke and signed Robert W. Jaffke. Said check also endorsed Robert W. Jaffke.

246 "Petitioner's Exhibit 12 is a check dated December 7, 1950, drawn on the Mercantile-Commerce Bank and Trust Company in the amount of $2300.00, payable to Robert W. Jaffke and signed Robert W. Jaffke. Said check also endorsed by Robert W. Jaffke.

247–
248 "Petitioner's Exhibit 13 is a bank statement of Robert W. Jaffke or H. C. Jaffke, 6454 Marmaduke Ave., St. Louis, Missouri, in account with Mercantile-Commerce Bank and Trust Company, St. Louis, Missouri, showing the following transactions:

Checks and Other Debits		Credits	Date	Ledger Entries	Daily Balance
Balance from Last Statement			Nov. 13 '50		1,715.96
90.00			Nov. 14 '50	1	1,625.96
		1,775.07	Nov. 15 '50	1	3,401.03
5,000.00		5,000.00	Nov. 16 '50	2	3,401.03
156.00	30.00		Nov. 17 '50	2	3,215.03
11.00			Nov. 20 '50	1	3,204.03
27.00	267.40		Nov. 21 '50	2	2,909.63
14.25	6.25		Nov. 22 '50	2	2,889.13
8.29	100.00				
123.12			Nov. 24 '50	3	2,657.72
136.20	271.83	1,356.14	Nov. 27 '50	3	3,605.83
50.00			Nov. 28 '50	1	3,555.83
360.00			Nov. 29 '50	1	3,195.83
74.45			Dec. 6 '50	1	3,121.38
3,800.00	2,300.00	530.87			
		3,500.00			
		2,000.00	Dec. 7 '50	5	3,052.25
765.62			Dec. 8 '50	1	2,286.63
166.33	7.82				
27.00	34.57				
2.00			Dec. 11 '50	5	2,048.91
2.00			Dec. 12 '50	1	2,046.91

"Petitioner's Exhibit 14 is a package of 36 checks, all drawn on the Mercantile-Commerce Bank and Trust Company, or Mercantile Trust Company (designated by star) St. Louis, Missouri, all payable to E. B. Dierkes, drawn on the account of Robert W. or H. C. Jaffke and signed Robert W. Jaffke, and all endorsed on the back by E. B. Dierkes. The following is descriptive of the date, amount and any additional information contained on said checks:

249 Ck. No. 54—January 31, 1951 — $108.32 — marked 'Int. on Loan 12/13-2/13/51'

Ck. No. 95 — March 23, 1951 — $2572.00 — marked 'A/C Principal $2500—Int. 2/13-3/23 $72.00'

250 *Ck. No. 969—Oct. 23, 1953—$40.83—marked 'Int. to 10/23/53'

*Ck. No. 985—Nov. 20, 1953—$2340.83—marked 'Int. to 11/23/53 $40.83 — Acct. of principal 11/23/53 $2300.00'

251 *Ck. No. 803—Aug. 6, 1953—$481.66—marked 'Int. to 8/23/53 $81.66—Principal $400.00'

*Ck. No. 935—Sept. 25, 1953—$40.83—no markings

252 *Ck. No. 724—May 7, 1953 — $81.66 — marked 'Int. 3/23-5/23/53'

*Ck. No. 764—June 23, 1953—$40.83—no markings

253 *Ck. No. 1058—Feb. 5, 1954 — $6613.00 — marked 'RWJ & Jarabek loan So Dakota'

*Ck. No. 1164—June 29, 1954—$300.00—marked 'Balance in full on collateral loans'

254 *Ck. No. 661—Feb. 26, 1953—$40.83—marked 'Int. to 2/23/53'

*Ck. No. 701—March 30, 1953—$40.83—marked 'Int. to 3/23/53'

255 *Ck. No. 1052—Feb. 2, 1954—$29.58—marked 'Int. to 1/23/54'

*Ck. No. 1012—Dec. 22, 1953—$29.58—marked 'Int. to 12/23/53'

256 Ck. No. 180—June 23, 1951—$63.75—marked

'Kreft Int. 7/13 4620 So. 39th $20.00
RWJ Int. 5/23-6/23/51. 43.75

63.75'

Ck. No. 211—Aug. 3, 1951—$43.75—no markings.

257 Ck. No. 225—Aug. 23, 1951—$43.75—no markings.

Ck. No. 248—Sept. 25, 1951—$43.75—marked 'Interest 8/23-9/23/51'

258 Ck. No. 121—April 20, 1951—$43.75—marked 'Int. to 4/23/51'

Ck. No. 152—May 22, 1951—$43.75—marked 'Int. to 5/23/51 on Coll. loan.'

259 Ck. No. 274—Oct. 24, 1951—$43.75—marked 'Interest to 10/23/51'

Ck. No. 294—Nov. 26, 1951—$43.75—marked 'Interest to 11/23/51'

260 *Ck. No. 374—Feb. 27, 1952—$43.75—marked 'Int. to 2/23/52'

*Ck. No. 396—March 26, 1952—$43.75—marked 'Int. to 3/23/52'

261 *Ck. No. 453—June 23, 1952—$43.75—marked 'Int. to 6/23/52'

*Ck. No. 492—July 26, 1952—$43.75—marked 'Int. to 7/23/52'

262 *Ck. No. 562—Oct. 28, 1952—$43.75—no markings

*Ck. No. 592—Dec. 1, 1952—$743.75—marked 'Int. to 11/23 $43.75—A/C Prin. 700.00'

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263 *Ck. No. 356—Jan. 28, 1952—$43.75—marked 'Int. to 1/23/52'

*Ck. No. 318—Dec. 26, 1951—$43.75—marked 'Int. to 12/23/51'

264 *Ck. No. 417—April 28, 1952—$43.75—no markings

*Ck. No. 438—May 28, 1952—$43.75—marked 'Int. to 5/23/52'

265 *Ck. No. 514—Aug. 27, 1952—$43.75—marked 'Int. 7/23-8/23/52'

*Ck. No. 535—Sept. 27, 1952—$43.75—marked 'Int. to 9/23'

266 "Ck. No. 613—Dec. 23, 1952—$41.50—marked 'Int. to 12/23/52'

"Ck. No. 643—Jan. 24, 1953—$40.83—marked 'Int. to 1/23/53'

267–
268 "Petitioner's Exhibit 14-A is a collateral note signed by Robert W. Jaffke, dated December 7, 1950, promising to pay to the Mercantile-Commerce Bank and Trust Company of St. Louis, Missouri the sum of $2000.00 with interest at 4%, either on demand or on March 15, 1951, secured by collaterals in the Trust Company's possession or substitutions thereafter. On the back of said note it appears that interest was paid to December 31, 1950 and also to January 31, 1951. On the face of the note, over the signatures, there is a stamp which indicates that the note was paid by renewal.

269 "Petitioner's Exhibit 15 is a demand note signed by Robert W. Jaffke payable to the order of E. B. Dierkes dated December 13, 1950, promising to pay $13000.00 with interest at 8%, secured by deed of trust on 6454 Marmaduke $3500.00; deed of trust on S. D. Farm (Jarabek) $7000.00; deed of trust on S. D. Farm (Jarabek) $1700.00; Chattel Mortgage $676.50; total $12,876.50. Said note is endorsed 'Without Recourse on me. E. B. Dierkes' and shows payments $2500.00 3/23/51; $700.00 12/1/52; $2300.00 11/2/53; $400.00 8/6/53. Said note is marked 'Paid in full' without the date of the final payment being marked thereon.

270–
271 "Petitioner's Exhibit 15 (apparently numbered 15 by error, but is in the record immediately following the other Petitioner's Exhibit 15) is a collateral note dated December 7, 1950, signed by Robert W. Jaffke, promising to pay $3500.00 with interest at 4% on or before March 15, 1951 to the order of the Mercantile-Commerce Bank and Trust Company, and is secured by collateral in the possession of the Trust Company. On the reverse side it shows interest paid to December 31, 1950 and also to January 31, 1951. Over the signature on the note it appears that it was paid by renewal.

272–
273 "Petitioner's Exhibit 16 is a collateral note signed by Robert W. Jaffke dated December 13, 1950, promising to pay $13000.00 on or before January 13, 1951 to E. B. Dierkes with interest at 5%, secured by '$7000.00 1st D/T from Jarabek to Jaffke on 160 acres Sanborn Co., S. D.; $1700.00 2nd D/T from Jarabek to Jaffke on 160 acres Sanborn Co., S.D.; $676.50 Chattel Mortgage from Jarabek to Jaffke; $3500.00 1st D/T from H. C. Jaffke to Tobey on 6454 Marmaduke Ave.; $5000.00 personal note from A. F. Chapman to R. Jaffke for money advanced on four duplex buildings in San Diego, California; $12000.00 personal note from A. F. Chapman to R. Jaffke for money advanced on buildings in San Diego, California'. Over the signature it is marked 'Paid in full'. On the reverse side it shows $108.32 interest paid 12/13–2/13/51; $72.00 interest paid 2/13–3/23/51; $2500.00 principal paid 3/23/51; $700.00 principal paid 12/1–52; $400.00 principal paid 8/6/53; $2300.00 principal paid 11/20/53; $6600.00 principal paid 2/5/54.

274–
275 "Petitioner's Exhibit 16 (this appears to be a duplicate of the other Petitioner's Exhibit 16) is not signed. On the reverse side of this note interest payments are shown each and every month through February 5, 1954 and commission of $500.00 paid on June 29, 1954, and shows the same principal payments as heretofore mentioned in connection with the other Petitioner's Exhibit 16.

276 "Petitioner's Exhibit 17 is a deposit slip of Robert W. Jaffke in the Mercantile-Commerce Bank and Trust Company dated 3/22/51 showing items left for collection of $3500.00, $27.00 and $37.00, total $3564.00. Also as a part of the same exhibit is a cash receipt ticket dated 3/15/51 in the amount of $151.50 for rent from all tenants at 5316 Quincy Street; also a cash receipt showing a payment from Fred H. Beck for D/T 6454 Marmaduke Avenue in the amount of $3500.00; also cash receipts collection dated 3/20/51 from Mayme Sucker for 6307 Theodosia Ave. in the amount of $27.00.

277 "Petitioner's Exhibit 18 is a note dated December 21, 1950 payable to Laura Downing in the amount of $500.00 with interest at 8% 3 months after date, signed by Robert W. Jaffke and Aurelia A. Jaffke. Said note merely has the word 'Paid' written across the face of it. On the back of the note it appears that it was endorsed 'Without Recourse on me. Laura Downing' and appears to have been released on 7/18/51.

278-281 "Petitioner's Exhibit 19 is a Deed of Trust signed by Robert W. Jaffke and Aurelia A. Jaffke, his wife, to secure the note mentioned as Petitioner's Exhibit 18, and appears to have been released on 7/18/51.

282 "Petitioner's Exhibit 20 is a check payable to Robert W. Jaffke in the amount of $2500.00, dated December 20, 1950, drawn on the Manufacturers Bank & Trust Company of St. Louis, and signed by Geo. Paul. On the back of said check it bears only the endorsement Robert W. Jaffke.

282 "Petitioner's Exhibit 21 is a check payable to Robert W. Jaffke in the amount of $1000.00, dated December 29, 1950, drawn on the Mercantile-Commerce Bank and Trust Company of St. Louis, and signed by Clarence L. Miller. On the back of said check it bears only the endorsement Robert W. Jaffke.

283 "Petitioner's Exhibit 22 is a check payable to Robert Jaffke in the amount of $1000.00 dated December 29, 1950, drawn on the Mississippi Valley Trust Company, St. Louis, Mo., said check being made on the Royce Products Company, 900 S. Seventh, St. Louis 2, Mo. account and signed by E. M. Koetkamp. On the back of said check appears only the endorsement Robert Jaffke.

284-287 "Petitioner's Exhibit 23 is a Deed of Trust signed by Robert W. Jaffke and Aurelia A. Jaffke, his wife, dated January 2, 1951, running to Wm. H. Jaffke as Trustee for Mary Boka and Clara B. Wills, to secure the payment of a note for $8000.00 dated March 2, 1951. Said instrument does not purport to show any recording nor any payment or release.

288 "Petitioner's Exhibit 24 was stricken by the Court's order of April 15, 1955, but is found at page 288 of the original transcript of record.

289 "Petitioner's Exhibit 25 is a check payable to Robert W. Jaffke in the amount of $1000.00, dated April 1, 1953, drawn on the Mercantile Trust Company, and signed by Robert W. Jaffke, as well as endorsed by Robert W. Jaffke. Said check bears the notation 'For Adolph Bohn'.

290 "Petitioner's Exhibit 26 is a receipt in words and figures as follows:

'April 1, 1953

Received of Robert W. Jaffke
One Thousand and no/100.....Dollars
100
To be paid to Adolph H. Bohnn
TRALLES, HOFFMEISTER & GILPIN
$1000.00 By Carroll C. Gilpin'.

290 "Petitioner's Exhibit 27 is a note dated December 6, 1950 payable to R. W. Jaffke in the amount of $7000.00 with interest at 8% twelve months after date, signed by Robert L. Knetzer, said note being payable at St. Louis, Mo. and being due December 6, 1951.

290 "Petitioner's Exhibit 28 in a receipt in words and figures as follows:

'Date Dec. 22, 1950

Received of Robt. W. Jaffke
Thirty five thousand one hundred dollars ($35,100.00), money loaned to me in cash, to be accounted for by December 28, 1950
$35,100.00 Robert L. Knetzer'

291–
301 "Petitioner's Exhibit 29 is a transcript of proceedings had in the chambers of Honorable Charles G. Briggle, U. S. District Judge, on March 11, 1952, and is found at pages 291 through 301 of the original transcript of record. By his order of April 15, 1955, Judge J. Leroy Adair allowed defendant trustee's motion to strike said

record of proceedings and therefore, same are not reproduced herein.

302–
305 "Petitioner's Exhibit 30 is a copy of a criminal indictment returned against the bankrupt, Robert L. Knetzer, and is shown at pages 302 through 305 of the original transcript of record. By his order of April 15, 1955 Judge J. Leroy Adair allowed the Trustee's motion to strike said exhibit and same is not reproduced herein."

DEFENDANT'S EXHIBIT NO. 1

Letter of G. W. Horsley, Attorney for William C. Dunham Trustee in Bankruptcy of Robert L. Knetzer, Bankrupt dated January 27, 1950 to all creditors of Robert L. Knetzer and Knetzer Motor Sales Co.

306 TO ALL CREDITORS OF ROBERT L. KNETZER and KNETZER MOTOR SALES CO.:

This letter is long overdue, but this can partly be explained by the fact that every time I got ready to send out a letter there was some matter that was in process and it was hoped that in a few days a complete report could be made. However, since it appears that it will be a long time before we will arrive at a place where any report can be complete, this letter is going out to bring the creditors up to date on what has happened in both of these bankruptcies.

In the matter of Robert L. Knetzer all of the assets, consisting of personal and real property, have been sold, and the Trustee now has on hand a little over $74,000.00. The only other money to be received from the sale of personal property has to do with Crandall Creek properties which were sold for $16,500.00. Five Thousand Dollars was paid down but this transaction has not as yet been completed. This deal may fall through but at any rate, some additional money will be received from the furniture and other items in Wyoming.

Federal Judge Charles G. Briggle has ordered Robert L. Knetzer to pay to the Trustee the sum of $250,000.00.

Only a very small portion of this has been paid, which is included in the above amount on hand. Mr. Knetzer has promised to make a substantial payment on or before February 18, 1950 and Judge Briggle has continued the citation until that date, at which time further action will be taken.

Other than the foregoing, the only assets that we can hope to recover consist of refunds made to creditors, which in our opinion, constitute a preference of such creditors. Only last week did we complete hearings before Judge Briggle where we examined various creditors. It will now be our job to start filing lawsuits against these creditors trying to recover the money paid to them during the four months period prior to bankruptcy. There is a lot of money involved in this matter and we hope to have considerable success in recovering these payments for the benefit of all of the creditors. However, this is going to take considerable time and will necessitate a lot of litigation. We sincerely believe that this will result in recovery of quite a bit of money for the creditors.

In the matter of Knetzer Motor Sales Co. we have on hand approximately $41,000.00. Of course, this fund belongs only to the creditors of Knetzer Motor Sales Co. Many creditors have filed in both bankruptcies and the matter of whether or not claims will be allowed in both has not been legally and finally determined but ruling on this should be made very shortly. It is only my personal opinion that those creditors who made their checks payable to Knetzer Motor Sales Co. and thought they were dealing with the corporation will have their claims allowed in both bankruptcies. By the same token, those who dealt only with Robert L. Knetzer will have claims allowed only against Robert L. Knetzer.

In the Knetzer Motor Sales Co. bankruptcy we do not have the matter of recovery of preferences by way of refunds to creditors, but we are contemplating filing one large lawsuit which we prefer not to discuss in this letter at the present time for obvious reasons.

With regard to the claims filed:

A. In the matter of Robert L. Knetzer there have been 335 claims filed totaling $3,844,776.54. One of these claims is by the State of Illinois for $20,189.82 representing sales taxes, which said claim is being resisted because we do not feel that that much money is due and owing. However, if that claim is allowed it will be a preferred claim for taxes and will come out of the monies on hand before payment to the creditors.

307 The Trustee of the Bankrupt Estate of Arthur F. Kramer has filed a claim in the amount of $2,991,000.00. We have filed objections to this claim and will resist it to the fullest extent. How much money the creditors ultimately will get depends pretty much on whether or not this claim is allowed. It may take as long as a year before this matter is finally settled by the Courts.

In addition to the foregoing we have received in the last few days a notice from the Federal Collector of Internal Revenue of a claim for $2,226,000.00 on income taxes for the year 1948. In my opinion this claim is ridiculous and we should be able to defeat it, but it will have to be litigated. It must be remembered that any tax claim is a preferred claim and is *paid in full* as far as the money will go, to the exclusion of all other creditors.

B. In the matter of Knetzer Motor Sales Co. there have been 415 claims filed totaling $3,524,990.13. Of these claims a total of $2,428.27 represents wages and taxes which are preferred claims and which will be paid before those of the other creditors.

The Trustee for Arthur F. Kramer also filed a claim in the amount of $2,991,000.00 against Knetzer Motor Sales Co. It is only my own personal opinion but I believe this claim can be defeated so far as Knetzer Motor Sales Co. is concerned. However, this will have to be litigated through the courts and it will be many months before we will know the answer to this.

In the meantime we are proceeding to allow or disallow all claims, which job should be completed in the next few

weeks. However, in the event claims are allowed or disallowed either side wil have the right to take an appeal which will mean a long delay. It is doubtful if any dividend will be paid to any creditors for some time, but just as soon as all tax claims and preferred claims can be disposed of, then it may be possible to pay a small dividend, even though litigation is still going on with regard to the Kramer claim and possibly some other large claims.

Many creditors have written asking about deducting the loss from their income tax. This should be taken up by you with your local Collector of Internal Revenue. Our Springfield Collector has ruled that anyone engaged in the business of buying or selling automobiles can deduct 80% of the loss for the year 1948—the other 20% will be adjusted as of the date when the bankruptcy is closed. Any individual not engaged in the automobile business can only take a loss at the time the bankruptcy is closed and the final dividend paid. However, in making out your income tax return we can only suggest that you follow the ruling of your local Collector of Internal Revenue.

This letter has been lengthy but I have tried to answer all of the questions contained in the hundreds of letters received by both Mr. Dunham and myself which time will not permit us to answer personally. If this letter does not answer your questions, please feel free to write again and I will try to give you a personal reply.

This letter is written on behalf of both Mr. William C. Dunham, the Trustee, and myself as his attorney.

Very truly yours,

/s/ G. William Horsley
G. William Horsley

GWH:ih

FINDING OF FACT AND CONCLUSIONS OF LAW—IN RE HEARING ON PETITION OF ROBERT W. JAFFKE TO RECOVER FUNDS FROM WILLIAM C. DUNHAM, TRUSTEE IN BANKRUPTCY OF THE ESTATE OF ROBERT L. KNETZER, BANKRUPT

308 (Entered on April 18, 1955.)

309 This is a suit brought upon a petition of Robert W. Jaffke addressed to this court, sitting in Bankruptcy, for the recovery of Thirty-six Thousand Dollars ($36,000.00) of petitioner's money from William C. Dunham, the trustee in the above captioned bankruptcy. Petitioner contends that the afore-mentioned sum was fraudulently obtained from him by Robert L. Knetzer, subsequent to his adjudication in Bankruptcy, and was paid over by said bankrupt to his said trustee, without the knowledge or consent of petitioner; and, said sum is being wrongfully withheld by the trustee in bankruptcy from petitioner since said sum is no part of the assets of the estate of said bankrupt but was property fraudulently acquired by the bankrupt after his adjudication in Bankruptcy.

FINDINGS OF FACT

1. That on October 21, 1948, one Robert L. Knetzer was adjudicated a bankrupt by this court; that on December 15, 1948, William C. Dunham was appointed and qualified as trustee of said bankrupt's estate; that on July 11, 1949, a turnover order was entered in said bankruptcy directing the bankrupt, Robert L. Knetzer, to pay to said trustee, William C. Dunham, the sum of Two Hundred and Fifty Thousand Dollars ($250,000.00), wrongfully withheld from his bankrupt estate; and, that on December 1, 1949, a contempt citation was entered in this court against the said Robert L. Knetzer for his failure to comply with said turnover order; and thereafter on March 28, 1950, he was remanded to the custody of the United States Marshal and confined in jail.

2. That William C. Dunham, trustee in the above-captioned bankruptcy, represents in this suit the interests, if any, of the bankrupt's creditors prior to the bankruptcy, whose claims in this court were occasioned by the said bankrupt's business before his bankruptcy of selling automobiles and are based on his failure to return their
310 deposits on orders for certain automobiles that were never delivered to them.

3. That the time period, pertinent to this suit, includes the period from December 6, 1950, to November 1, 1951;

and during this period, the bankrupt, Robert L. Knetzer, upon his release from confinement in jail, attempted to purge himself of the contempt citation by making installment payments to his trustee in bankruptcy, the respondent, William C. Dunham.

4. That during the same period after his adjudication as a bankrupt, and at the time of making such installment payments to said trustee, the bankrupt, Robert L. Knetzer, obtained large sums of money from petitioner, Robert W. Jaffke, by means of fraud and misrepresentation; and that the sum of Twenty-seven Thousand Four Hundred Dollars ($27,400.00) of the monies so obtained by the said bankrupt from petitioner was delivered over to his said trustee in bankruptcy, the respondent, William C. Dunham.

5. That the respondent, William C. Dunham, in his capacity as trustee of the bankrupt's estate, has possession of the said sum of Twenty-Seven Thousand Four Hundred Dollars ($27,400.00) which he has refused to return to the petitioner on petitioner's demand for its return to him as property wrongfully taken from him.

CONCLUSIONS OF LAW

1. That courts of bankruptcy proceed upon equitable principles, and the equities in this case are with the Petitioner.

2. That the bankrupt, Robert L. Knetzer, obtained the sum of Twenty-seven Thousand Four Hundred Dollars ($27,400.00) from the petitioner, after said bankrupt's adjudication in bankruptcy, by means of fraud and misrepresentation, which sum is now in the possession of the respondent trustee, William C. Dunham.

3. That the said sum of Twenty-seven Thousand Four Hundred Dollars ($27,400.00) constitutes after acquired property and is not a part of the bankrupt, Robert L. Knetzer's estate in bankruptcy; hence, is not property to which the trustee, William C. Dunham, is lawfully entitled to as representative of the general creditors of the
311 said bankrupt's estate and as such should be returned to its rightful owner, the petitioner, Robert W. Jaffke.

4. Defendant-Trustee heretofore moved to strike the evidence of Petitioner because of the death of the bankrupt Knetzer; said objection is overruled and Motion to Strike is overruled;

5. Defendant-Trustee objects to the affidavit of Knetzer made in August of 1952; objection sustained, and Motion to Strike sustained.

6. Defendant-Trustee moves to strike the record of proceedings before Judge Briggle; Motion to Strike allowed.

7. Defendant-Trustee's objection to the Indictment against the bankrupt Knetzer for fraud—objection sustained, and Motion to Strike sustained.

8. Defendant-Trustee's objection to Petitioner's Exhibits No. 27 and 28 being a Note and Receipt, from Knetzer to Petitioner Jaffke—objection overruled.

JUDGMENT ORDER

This cause now coming on to be heard by the Court without a jury, upon the issues joined in said cause, and the Court having heard and considered the evidence submitted by the parties hereto, including the several exhibits which are accepted in evidence, and having adopted Findings of Fact and Conclusions of Law with respect to said issues, and having now heard the arguments of counsel and considered the briefs submitted by the parties hereto, and the Court being now fully advised in the premises, DOTH FIND: The issues herein for the Petitioner, Robert W. Jaffke.

THEREFORE, it is considered and ORDERED by the Court that the petitioner do have and recover of and from the respondent, William C. Dunham, in his official capacity as trustee, the sum of Twenty-seven Thousand Four Hundred Dollars ($27,400.00).

Dated this 15th day of April, A. D. 1955.

/s/ J. Leroy Adair
United States District Judge

Indorsed
Filed Apr. 18, 1955
G. W. Schwaner, Clerk.

NOTICE OF APPEAL

312 (Filed on April 21, 1955.)

313 TO: Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

Roscoe Bonjean
501 Myers Building
Springfield, Illinois

S. S. DuHamel
414 Illinois Building
Springfield, Illinois

ATTORNEYS FOR ROBERT W. JAFFKE.

Notice is hereby given that William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Bankrupt, Respondent in the above entitled matter, hereby appeals to the United States Court of Appeals for the Seventh Circuit, from the judgment order entered by the Honorable J. Leroy Adair on the 15th day of April, A.D., 1955, wherein it was ordered that the Petitioner, Robert W. Jaffke, recover from the Respondent, William C. Dunham, in his official capacity as Trustee, the sum of Twenty Seven Thousand Four Hundred Dollars ($27,400.00).

/s/ G. W. Horsley
G. W. Horsley, Attorney

for Respondent William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Bankrupt

Indorsed
Filed Apr. 21, 1955
G. W. Schwaner, Clerk.

314– On April 25, 1955, Defendant-Trustee gave notice
323 of presentment of motion for supersedeas; said motion was filed on April 25, 1955 and on said date a certified check was deposited in the amount of $29,000.00 with G. W. Schwaner, Clerk of the U.S. District Court,

Southern District of Illinois, Southern Division, and upon presentment of supersedeas bond in the amount of $29,000.00, after due proof of service upon attorneys for Petitioner, said supersedeas bond was approved and stay of enforcement of judgment pending the disposition of the appeal, all entered on April 25, 1955; on May 3, 1955, U.S. District Judge Adair extended the time for filing the designation of the record and statement of points to and including May 31, 1955, and the time for docketing and filing of the record in the U.S. Court of Appeals to and including June 30, 1955.

STATEMENT OF POINTS

324 (Filed on May 31, 1955)

325 Now comes WILLIAM C. DUNHAM, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Bankrupt, Respondent in the above entitled matter; Appellant herein, and files the following statement of points on which he intends to rely on appeal from the order entered in this proceeding on the 15th day of April, 1955, and judgment thereon in favor of the Petitioner, Robert W. Jaffke, to-wit:

I.

Findings of Fact and Conclusions of Law In Re Hearing on Petition of Robert W. Jaffke to Recover Funds from William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Bankrupt, and Judgment Order, a part thereof, entered by the Honorable J. LeRoy Adair on April 15, 1955 and filed in this Court on April 18, 1955:

1. Finding of Fact No. 2 is contrary to the evidence in that many pending claims are based upon matters not involving deposits on cars and, for the further reason that the Respondent and Appellant also represents, in this proceeding, the widow and heirs of the deceased bankrupt.

2. Finding of Fact No. 3 is contrary to the evidence in that the time period is broader in scope than just from December 6, 1950 to November 1, 1951.

3. Finding of Fact No. 4 is contrary to the evidence in that the Petitioner did not prove that Robert L. Knetzer

obtained large sums of money from him by means of fraud and misrepresentation, and in that the evidence absolutely does not disclose nor prove that the sum of Twenty Seven Thousand Four Hundred Dollars ($27,400.00) or any sum of money, which was obtained by the Bankrupt from the Petitioner, was duly delivered over to the Respondent-Appellant.

4. Finding of Fact No. 5 is contrary to the evidence in the record in that the Petitioner did not prove that the Respondent has in his possession Twenty Seven Thousand Four Hundred Dollars ($27,400.00), or any sum of money, which belongs to the Petitioner.

5. Conclusion of Law No. 1 is contrary to the applicable law in this case.

6. Conclusion of Law No. 2 is contrary to the evidence and the applicable law.

7. Conclusion of Law No. 3 is contrary to the evidence in the case and the applicable law.

326 8. Conclusion of Law No. 4 is contrary to the applicable law of the State of Illinois and the Court should have ruled that the Petitioner was an incompetent witness.

9. Conclusion of Law No. 8 is contrary to the applicable law and the evidence in this case.

10. Said Judgment Order is contrary to the law and the evidence and more particularly, judgment against the Respondent-Appellant in the sum of Twenty Seven Thousand Four Hundred Dollars ($27,400.00) is not justified, in said amount or in any sum of money whatsoever, under the applicable law and evidence.

II.

1. The Court erred as a matter of law in allowing the Petitioner to testify in his own behalf, inasmuch as the Bankrupt was deceased and left him surviving a widow and minor children.

2. The petition of the Petitioner did not state a good and sufficient cause of action upon which to base his claim

and should have been dismissed by the Court.

3. The Petitioner was guilty of laches in not filing his claim until December 1, 1952, more than one year after the occurence in question, thereby hampering and interfering with the orderly administration of the bankrupt estate.

4. The Court erred as a matter of law in allowing Petitioner's claim, where the evidence showed participation by the Petitioner in the activities of the Bankrupt, to such an extent that the Petitioner did not come into court with clean hands, and that Petitioner had ample knowledge of the Turn-Over Order and contempt citation and specifically loaned the Bankrupt money to pay upon said Turn-Over Order, all contrary to equitable principles which govern bankruptcy procedure.

5. The Court erred in permitting the Petitioner to testify as to specific conversations between the Petitioner and the deceased Bankrupt.

6. The Court erred in allowing Petitioner to give opinions and conclusion evidence.

7. The Court erred in allowing Petitioner to testify as to conversations with the deceased Bankrupt, after bankruptcy and after title had passed to certain moneys and personal property, said conversations being in derogation of the Trustee's title.

8. The Court erred in admitting improper evidence.

9. The Court erred in allowing Attorney Robert W. Heinze to testify concerning conversations with the deceased Bankrupt on or about August 1, 1952, and in connection with Petitioner's Exhibit 24.

10. The Court erred in admitting Petitioner's Exhibits
27 and 28, and other exhibits, which were not admissible.

327 11. The Petitioner failed to prove that the Respondent had sufficient moneys on hand to pay said claim, in full or in part.

12. The Petitioner failed to prove by any competent evidence that any moneys given by Petitioner to the Bankrupt were turned over by said Bankrupt to the Respondent; the evidence is totally lacking in any tracing of the funds from Petitioner to the Respondent.

13. The Petitioner failed to prove by any competent evidence that the said Robert L. Knetzer made any representations which were false and which would support a petition for reclamation in this Bankruptcy Court.

WILLIAM C. DUNHAM, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, Respondent-Appellant

/s/ By G. W. Horsley
G. W. Horsley, His Atty.
408 East Adams Street
Springfield, Illinois

PROOF OF SERVICE OF STATEMENT OF POINTS

324 (Filed on May 31, 1955.)

328 STATE OF ILLINOIS }
COUNTY OF SANGAMON } SS.

L. H. LENZ, being first duly sworn, on oath, deposes and says that he is associated in the practice of law with G. W. Horsley, Attorney for William C. Dunham, Respondent-Appellant in the above entitled cause; that on the 31st day of May, A. D. 1955, he caused to be deposited in the United States Mails, with sufficient postage thereon to insure the delivery of same, first class, envelopes addressed to:

Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

Roscoe Bonjean
501 Myers Building
Springfield, Illinois

S. S. DuHamel
414 Illinois Building
Springfield, Illinois

ATTORNEYS FOR ROBERT W. JAFFKE,

said envelopes containing each a true and correct copy of Statement of Points filed by Petitioner-Appellee in the above entitled cause.

/s/ L. H. Lenz

SUBSCRIBED AND SWORN to before me this 31st day of May A. D. 1955.

(Seal) /s/ Irma M. Helm
Notary Public

Indorsed
Filed May 31, 1955
G. W. Schwaner, Clerk.

DESIGNATION OF RECORD

329 (Filed on May 31, 1955.)

330 Now comes William C. Dunham, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, a Bankrupt, Appellant herein, by G. W. Horsley, his attorney, and designates the portions of the record and proceedings herein which he deems should be contained in the record on appeal of this cause to the United States Court of Appeals for the Seventh Circuit, as follows:

1. Petition of Robert W. Jaffke filed December 1, 1952.

2. Answer of William C. Dunham as Trustee to said petition, and Affirmative Defenses, filed March 16, 1953.

3. Motion to make more definite first affirmative defense, and reply to other affirmative defenses, filed April 1, 1953.

4. Affidavit for change of venue filed September 24, 1954.

5. Application to disqualify judge, filed September 24, 1954.

6. Transcript of proceedings had and taken before the Honorable Charles G. Briggle on September 24, 1954, filed October 6, 1954.

7. Order of Judge Briggle assigning case to Judge J. Leroy Adair, dated October 8, 1954.

8. Proceedings had and evidence taken in the above entitled cause before the Honorable J. Leroy Adair, United States District Judge, on the 14th and 15th day of October, 1954.

9. All exhibits offered and received in evidence on the part of the Petitioner in this matter, except Petitioner's Exhibits 24, 29 and 30.

10. All exhibits offered and received in evidence on the part of the Respondent William C. Dunham.

11. Findings of fact, conclusions of law and judgment order entered by Judge J. Leroy Adair on April 15, 1955, filed April 18, 1955.

331 12. All other orders and pleadings of record in this matter, having to do only with the petition of Robert W. Jaffke.

13. Notice of appeal filed April 21, 1955.

14. Motion for supersedeas and supersedeas bond, filed April 25, 1955.

15. Order approving supersedeas bond, entered April 25, 1955.

16. Order of Court extending time for filing Designation of Record, Statement of Points and docketing and filing of Record in the United States Court of Appeals for the Seventh Circuit entered May 3, 1955.

17. Statement of points relied upon by William C. Dunham as Trustee on appeal, with proof of service thereon upon counsel for Appellee.

18. All stipulations heretofore or hereafter filed with the Clerk of this Court with regard to this matter.

19. This designation of contents of record on appeal, together with proof of service thereof on counsel for Appellee.

WILLIAM C. DUNHAM, Trustee in Bankruptcy of the Estate of Robert L. Knetzer, a Bankrupt-Respondent-Appellant.

By /s/ G. W. Horsley
G. W. Horsley, His Attorney
408 East Adams Street
Springfield, Illinois

PROOF OF SERVICE
DESIGNATION OF RECORD

329 (Filed on May 31, 1955.)

332 STATE OF ILLINOIS }
COUNTY OF SANGAMON } SS.

L. H. LENZ, being first duly sworn, on oath, deposes and says that he is associated in the practice of law with G. W. Horsley, Attorney for William C. Dunham, Respondent-Appellant in the above entitled cause; that on the 31st day of May A. D., 1955, he caused to be deposited in the United States Mails, with sufficient postage thereon to insure the delivery of same, first class, envelopes addressed to:

Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois

Roscoe Bonjean
501 Myers Building
Springfield, Illinois

S. S. DuHamel
414 Illinois Building
Springfield, Illinois

ATTORNEYS FOR ROBERT W. JAFFKE,

said envelopes containing each a true and correct copy of Designation of Record filed by Petitioner-Appellee in the above entitled cause.

/s/ L. H. Lenz

SUBSCRIBED AND SWORN to before me this 31st day of May, A.D., 1955.

(Seal) /s/ Irma M. Helm
Notary Public

Indorsed
Filed May 31, 1955
G. W. Schwaner, Clerk.

DESIGNATION OF ADDITIONAL PORTIONS OF THE RECORD

333 (Filed on June 9, 1955.)

334 Now comes Robert W. Jaffke, Appellee herein, by Roscoe Bonjean and Wanless, Craven and Giffin, his attorneys, and designates the additional portions of the record and proceedings herein to be contained in the record on appeal of this cause to the United States Court of Appeals for the Seventh Circuit, as follows:

1. Exhibits 24, 29 and 30 offered in evidence on the part of the petitioner in this matter.

2. This designation of additional portions of the record and proceedings herein to be contained in the record on appeal of this cause, together with proof of service thereof on counsel for Appellant.

ROBERT W. JAFFKE, Petitioner-Appellee

By: /s/ Roscoe Bonjean
Roscoe Bonjean
501 Myers Building
Springfield, Illinois

/s/ Wanless, Craven & Giffin
Wanless, Craven & Giffin
First National Bank Building
Springfield, Illinois
His Attorneys

Indorsed
Filed June 9, 1955
G. W. Schwaner, Clerk.

PROOF OF SERVICE OF DESIGNATION OF ADDITIONAL PORTIONS OF THE RECRD

333 (Filed on June 9, 1955.)

335 STATE OF ILLINOIS }
COUNTY OF SANGAMON } SS.

ROSCOE BONJEAN, being first duly sworn, on oath deposes and says that he is one of the attorneys of record for Robert W. Jaffke, Petitioner-Appellee in the above entitled cause; that on the 9th day of June, A. D. 1955, he caused to be deposited in the United States Mails, with sufficient postage thereon to insure the delivery of same, first class, envelope addressed to G. W. Horsley, Attorney at Law, 408 East Adams Street, Springfield, Illinois, attorney of record for William C. Dunham, as Trustee of the Estate of Robert L. Knetzer, Bankrupt, Respondent-Appellant, said envelope containing a true and correct copy of Designation of Additional Portions of the Record and proceedings herein to be contained in the record on appeal of this cause to the United States Court of Appeals for the Seventh Circuit.

/s/ Roscoe Bonjean

SUBSCRIBED AND SWORN to before me, a Notary Public, this 9th day of June, A. D., 1955.

(Seal) /s/ Margaret L. Cantrall
Notary Public

Indorsed
Filed June 9, 1955
G. W. Schwaner, Clerk.

CERTIFICATION OF RECORD BY CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS DATED JUNE 17, 1955

336 I, G. W. Schwaner, Clerk of the United States District Court in and for the Southern District of Illinois, do hereby certify that the annexed and foregoing is a true

and complete transcript of the proceedings had of record and on file, made in accordance with the Designations of Record in the cause entitled Robert W. Jaffke vs. William C. Dunham, as Trustee of the Estate of Robert L. Knetzer, Bankrupt, in the Matter of Robert L. Knetzer, Bankruptcy No. 11789, as fully as the same appears from the original files and records in said cause now in my office remaining.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Springfield this 17th day of June, A. D. 1955.

(Seal) /s/ G. W. Schwaner,
Clerk.

Respectfully submitted,

Counsel for Appellant:
G. W. Horsley,
L. H. Lenz,
408 E. Adams Street,
Springfield, Illinois.

Counsel for Appellee:
Roscoe Bonjean,
501 Myers Building,
Springfield, Illinois.

William M. Giffin of
Wanless, Craven & Giffin,
First National Bank Bldg.,
Springfield, Illinois.

LIBRARY
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Office - Supreme Court, U. S.
FILED
APR 10 1956
HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

October Term, 1955

No. 60

ROBERT W. JAFFKE, *Petitioner,*

v.

WILLIAM C. DUNHAM, Trustee of the Estate of Robert L. Knetzer, Bankrupt, *Respondent.*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

CHAUNCEY P. CARTER, JR.
HERBERT J. MILLER, JR.
World Center Building
Washington 6, D. C.
Attorneys for Petitioner

Of Counsel:
KIRKLAND, FLEMING, GREEN,
MARTIN & ELLIS

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.